



**Saint Paul Planning Commission**  
City Hall Conference Center Room 40  
15 Kellogg Boulevard West

Christopher B. Coleman,  
Mayor

**Agenda**

August 10, 2012  
8:30 – 11:00 a.m.

Saint Paul  
Planning Commission

Chair  
Barbara A. Wencil  
First Vice Chair  
Elizabeth Reveal  
Second Vice Chair  
Paula Merrigan  
Secretary  
Daniel Ward II

**I. Approval of minutes of June 29, 2012.**

**II. Chair's Announcements**

**III. Planning Director's Announcements**

**IV. Zoning Committee**

**SITE PLAN REVIEW** – List of current applications. *(Tom Beach, 651/266-9086)*

**OLD BUSINESS**

#12-065-215 Providence Development LLC – Enlargement of the upper two units of a nonconforming 4-plex into unfinished attic space. 890 Goodrich Avenue between Victoria and Milton. *(Mary Matze, 651/266-6708)*

**NEW BUSINESS**

#12-079-791 Juliette Cherbuliez – Establishment of legal nonconforming status as a duplex. 2343 Carter Avenue between Gordon and Keston. *(Mary Matze, 651/266-6708)*

#12-083-282 Pastor Irene Stockett – Conditional Use Permit for transitional housing with up to 6 residents, including the owner. 1093 Edgerton Street between Jessamine and Magnolia. *(Kate Reilly, 651/266-6618)*

**V. Comprehensive Planning Committee**

Great River Passage Master Plan – Recommendation to release for public review and set public hearing for September 21, 2012. *(Lucy Thompson, 651/266-6578)*

**VI. Neighborhood Planning Committee**

Near East Side Roadmap and Near East Side Rezoning Study – Approve resolution recommending to the Mayor and City Council adoption of the Roadmap and approval of the proposed property rezoning. *(Kate Reilly, 651/266-6618)*

Planning Director  
Donna Drummond

**VII. Transportation Committee**

District 1 Transportation Plan – Approve resolution recommending to the Mayor and City Council adoption of this amendment to the District 1 Plan.  
(Christina Morrison, 651/266-6546)

**VIII. Communications Committee**

**IX. Task Force/Liaison Reports**

**X. Old Business**

**XI. New Business**

**XII. Adjournment**

Information on agenda items being considered by the Planning Commission and its committees can be found at [www.stpaul.gov/ped](http://www.stpaul.gov/ped), click on Planning.

Planning Commission Members: PLEASE call Sonja Butler, 651/266-6573, if unable to attend.

**Saint Paul Planning Commission &  
Heritage Preservation Commission**  
MASTER MEETING CALENDAR

**WEEK OF AUGUST 6-10, 2012**

**Mon** (6) \_\_\_\_\_

**Tues** (7) \_\_\_\_\_

3:30- **Comprehensive Planning Committee**  
5:00 p.m. (*Merritt Clapp-Smith, 651/266-6547*)

**HAS BEEN CANCELLED**

**Weds** (8) \_\_\_\_\_

**Thurs** (9) \_\_\_\_\_

5:00 p.m. **Heritage Preservation Commission**

**Room 40 City Hall**  
Lower Level  
Enter building on 4<sup>th</sup> Street  
15 W. Kellogg Blvd.

**Staff Announcements**

July Design Review Statistics

August Legislative Hearing Notification

**New Business**

**Great River Passage Plan** – Presentation by Don Ganje, Department of Parks and Recreation

**Overview of Lowertown Historic District** – Since Lowertown's establishment as a historic district in 1984, the design review guidelines have guided development and changes. This presentation will focus on the progression the district has gone through over the past 30 years as an introduction to revising the *Lowertown Design Review Guidelines*. (Hilary Holmes, HPC intern)

**Committee Reports**

Education Committee (Ferguson, Trout-Oertel)

3M Advisory Committee/Workgroups update (Trimble, Mazanec)

**Fri** (10) \_\_\_\_\_

8:30- **Planning Commission Meeting**  
11:00 a.m. (*Donna Drummond, 651/266-6556*)

**Room 40 City Hall**  
Conference Center  
15 Kellogg Blvd.

**Zoning..... SITE PLAN REVIEW** – List of current applications. *(Tom Beach, 651/266-9086)*

**OLD BUSINESS**

#12-065-215 Providence Development LLC – Enlargement of the upper two units of a nonconforming 4-plex into unfinished attic space. 890 Goodrich Avenue between Victoria and Milton. *(Mary Matze, 651/266-6708)*

**NEW BUSINESS**

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#12-083-282 Pastor Irene Stockett – Conditional Use Permit for transitional housing with up to 6 residents, including the owner. 1093 Edgerton Street between Jessamine and Magnolia. *(Kate Reilly, 651/266-6618)*

**Comprehensive Planning**

**Committee.....** Great River Passage Master Plan – Recommendation to release for public review and set public hearing for September 21, 2012. *(Lucy Thompson, 651/266-6578)*

**Neighborhood Planning**

**Committee.....** Near East Side Roadmap and Near East Side Rezoning Study – Approve resolution recommending to the Mayor and City Council adoption of the Roadmap and approval of the property rezoning. *(Kate Reilly, 651/266-6618)*

**Transportation Committee .....** District 1 Transportation Plan – Approve resolution recommending to the Mayor and City Council adoption of this amendment to the District 1 Plan.  
*(Christina Morrison, 651/266-6546)*



**Saint Paul Planning Commission  
City Hall Conference Center  
15 Kellogg Boulevard West**

**Minutes June 29, 2012**

A meeting of the Planning Commission of the City of Saint Paul was held Friday, June 29, 2012, at 8:30 a.m. in the Conference Center of City Hall.

**Commissioners Present:** Mmes. Merrigan, Noecker, Perrus, Porter, Reveal, Wang, Wencil; and Messrs. Connolly, Edgerton, Gelgelu, Lindeke, Nelson, Oliver, Schertler, and Spaulding.

**Commissioners Absent:** Mmes. Halverson, \*Shively, \*Thao, and Messrs. \*Ochs, \*Ward, \*Wickiser.  
\*Excused

**Also Present:** Donna Drummond, Planning Director; Emily Erickson, Department of Public Works; Patricia James, Christina Morrison, Kate Reilly, Mary Matze, and Sonja Butler, Department of Planning and Economic Development staff.

**I. Approval of minutes of June 1, 2012.**

**MOTION:** *Commissioner Reveal moved approval of the minutes of June 1, 2012. Commissioner Noecker seconded the motion. The motion carried unanimously on a voice vote.*

**Approval of minutes of June 15, 2012.**

**MOTION:** *Commissioner Reveal moved approval of the minutes of June 15, 2012. Commissioner Merrigan seconded the motion. The motion carried unanimously on a voice vote.*

**II. Chair's Announcements**

Chair Wencil had no announcements.

**III. Planning Director's Announcements**

Donna Drummond announced that the July 13, 2012, Planning Commission meeting is cancelled, since there are no action items coming from any of the committees. Instead, the Commissioners are encouraged to attend the "Navigating the New Normal" session with the City Council. Senior staff from the Mayor's Office and PED will attend as well. The session will be on Tuesday, July 17<sup>th</sup> from 3:00 to 5:00 p.m.. The City Council last week approved the Grand and Finn Student Apartments, which was at the Planning Commission for Site Plan Review; the appeal filed by neighbors was denied. The Student Housing Overlay was approved by the City Council.

#### IV. Zoning Committee

##### STAFF SITE PLAN REVIEW – List of current applications. (Tom Beach, 651/266-9086)

Five items came before the Site Plan Review Committee on Tuesday, June 26, 2012:

- Hmong modular classroom, move modular classroom to school site at 1515 Brewster.
- Wells parking lot, new parking lot at 660 Wells.
- Wings Financial, expand existing parking lot at 1798 West 7<sup>th</sup> Street.
- American Testing, new 11,500 square foot building for labs, office and storage at 550 Cleveland Avenue North.
- Victoria Park Apartments, two new 3-story apartment buildings with 213 units at 734 Victoria Street South.

Three items to come before the Site Plan Review Committee on Tuesday, July 3, 2012.

- Gerdau, site remediation: remove 13,000 cubic yards of metal-impacted sediment from North Star Lake at 1678 Red Rock Road.
- Montessori Training Center of Minnesota, new classroom buildings at 1611 Ames Avenue.
- Habitat for Humanity, new office building at 1954 University Avenue (at Prior).

#### NEW BUSINESS

#12-064-233 First and First LLC – Modification of condition in previously-approved pawn shop permit that the pawn shop not face Suburban Avenue. 1891 Suburban Avenue, NW corner at Burns. (Kate Reilly, 651/266-6618)

Commissioner Nelson said that the committee voted to approve the modification with eight conditions. One of the conditions is that there not be any signage along Suburban Avenue. Another condition is that the applicant purchase and close the alternative financial business that is currently too close to the proposed pawn shop, so that the pawn shop comes into compliance with the zoning code regarding distance from other pawn shops and alternative financial establishments.

*Commissioner Merrigan announced that she will be abstaining from this vote due to a conflict of interest.*

Commissioner Perrus asked for clarification of the two-year timeframe for conditional use permits.

Commissioner Nelson explained that it is not a sunset for the conditional use. A person receives permission to establish the conditional use within a two-year period of time. A year has passed since the original approval, and the two-year time period is based on the original approval date. It is not reset based on this approval.

**MOTION:** *Commissioner Nelson moved the Zoning Committee's recommendation to approve the modification of one of the conditions in a previously approved permit subject to additional conditions. The motion carried 13-0 with 1 abstention (Merrigan) on a voice vote.*

#12-065-215 Providence Development LLC – Enlargement of the upper two units of a nonconforming 4-plex into unfinished attic space. 890 Goodrich Avenue between Victoria and Milton. (Mary Matze, 651/266-6708)

*Commissioner Nelson announced that this case has been laid over to the August 2, 2012 Zoning Committee meeting.*

Commissioner Nelson announced that the next Zoning Committee meeting on Thursday, July 5, 2012 has been cancelled.

#### V. **Transportation Committee**

Comments on Central Corridor Transit Service Concept Plan – Approve resolution recommending that the Mayor and City Council forward comments to Metro Transit. (Christina Morrison, 651-266-6546)

Christina Morrison, PED staff talked about the background and the recommended changes in Metro Transits Central Corridor Transit Service study. She outlined the study area, goals and process. Ms. Morrison walked through some of the proposed changes and the committee's comments for the Planning Commission's approval. She introduced Ms. Cyndi Harper from Metro Transit, who offered to answer questions.

Commissioner Reveal asked about fare impacts with service improvements, and about commuter parking. Ms. Morrison noted that the plan would reinvest the resources that are saved on the reduced service from route 16, 94, 144 and 50. This plan assumes no new service funding or fare increases.

Cyndi Harper, Manager of Route Planning for Metro Transit, said that there are no park and ride lots planned along the Green Line. She noted the urban context, and that LRT will primarily serve neighborhoods along the line.

Commissioner Oliver asked for clarification about which routes service park and ride areas. Ms. Harper outlined express service from Maplewood Mall and Sunray to downtown Saint Paul. She noted that there are no plans to brand services from park and rides to the Central Corridor area any differently. The marketing and promotion prior to 2014 will inform the public of the various new options.

Commissioner Noecker asked about improved frequency of service for the West Side on weekends, via the 62 bus. Ms. Harper stated that route 62 will now take the place of the 67, and that there will be no change to the frequency of service.

Commissioner Connolly asked for background on development of the plan. Ms. Harper outlined the goals and process. Emphasis was given to growing ridership, and strengthening the connections to the train and bus network.

Commissioner Edgerton commented on high traffic volumes into Como Park, stating that he would like to see the Lexington bus line continue to Horton to serve park demand. Ms. Harper stated that this was a common item of feedback that they have received, and that they plan to revisit this in the final recommendations later this year.

Commissioner Spaulding asked staff to outline the core recommendations, especially regarding the 83 bus. Ms. Morrison walked through the written comments and the draft resolution.

Commissioner Schertler asked why the 134 route is being reduced on the fringe of rush hour. Ms. Harper responded that route 134 will retain service but will be reduced on some less popular trips. She noted that improvements on route 87 will supplement 134 service. Commissioner Schertler asked about rush hour fares. Ms. Harper said route 134 is considered a limited stop, and is the same fare as route 87 and the train.

Commissioner Schertler asked if they had asked for feedback on route 134 changes, and Ms. Harper outlined the extensive public outreach process.

Commissioner Porter complimented the development of the service plan.

Commissioner Spaulding asked staff to discuss the Trusted Advocate Program. Ms. Harper explained that the Trusted Advocate Program is a demonstration project with the District Councils Collaborative of Minneapolis/Saint Paul (DCC). The trusted advocates engage community members who do not normally participate in a more traditional outreach process.

Chair Wencl stated that she was concerned about hide-and-ride parking and parking for East Side residents. Commissioner Spaulding reviewed City policy discouraging the addition of park-and-ride lots.

**MOTION:** *Commissioner Spaulding moved the Transportation Committee's recommendation to approve the resolution recommending that the Mayor and City Council forward comments to Metro Transit. Commissioner Lindeke seconded the motion. The motion carried unanimously on a voice vote.*

Saint Paul Public Works Transportation Projects Process – Approve resolution approving the process documents and recommending their use by the Department of Public Works.  
(Emily Erickson, 651/266-6059)

Emily Erickson, with the Department of Public Works, spoke about the Saint Paul Public Works Transportation Projects Process documents. The Planning Commission briefing is part of an effort by Public Works to clarify their process for selection and development of projects. Ms. Erickson explained how the Planning Commission fits into that process via the Transportation Committee. Part of the early work when the Committee was first formed was to develop and clarify project processes. Ms. Erickson went through the Transportation Reconstruction Project Process, some of which pre-dates the Committee's formation. Most projects begin with a funding application; the next step is a staff report that is reviewed by the Transportation Committee. After review and approval, the project is logged on to a project web site. A staff team, including Public Works, Planning & Economic Development and Parks and Recreation, meets to determine the appropriate review and approval process. Some routine projects may proceed with administrative review, and larger and/or more controversial projects may go through a detailed public process for review. The more controversial projects will go back to the Transportation Committee, and then the Planning Commission for official action. The City Council makes the final approval of the project spending.

If the Planning Commission endorses these documents, the Department of Public Works will incorporate them into their packet of best practices that they use as part of their American Public Works certification process. There are still some process details to be developed, including use of the City's web site. Therefore, staff is treating this document as a draft to be developed further. The Planning Commission will be consulted periodically to assess the progress of the Committee and staff work.

Commissioner Noecker asked whether, if the Transportation staff team determines that it doesn't need to go to the Transportation Committee, does it go back to the Planning Commission?

Ms. Erickson said that if a project doesn't need to go back to the Transportation Committee, it may be sent directly to the City Council for approval. For larger and more controversial projects, the Transportation Committee offers an opportunity to get a city-wide planning perspective.

Commissioner Noecker commented that maybe the steps that are conditional can be as such. For example, it says "after the Transportation staff meeting," but there is nothing that says if the team has decided it needs to go back to the Transportation Committee. It just looks like that happens regardless, so maybe there is a way to indicate such.

Commissioner Lindeke was curious about the trigger point idea. He asked what kind of changes would hit the trigger, what would be a case when that would come up.

Ms. Erickson said the one that comes to mind is the Jefferson Avenue Bikeway Project. Prior to this year, there was no trigger point because the old process dictated that if the Planning Commission had approved a project that later became more controversial, it would not be reconsidered by the Commission. In the case of the Jefferson Avenue Bikeway Project, it would have hit a trigger point in mid-process for two reasons. First, the scope of the project shifted and raised questions about conformance with the Comprehensive Plan. Second, the Public Works Department may recognize the need for a second look by the Planning Commission where the scope has substantially changed.

Commissioner Schertler suggested that there should be language added that illustrates the timing, redevelopment impact or cost impact of an improvement.

Ms. Erickson said that might be challenging to capture in these documents, but that the Committee will consider including some of the needed analysis.

Donna Drummond, Planning Director, added that the staff report form for the Transportation Committee has a note on primary funding sources to provide that information and put that into context the comments that may be coming in about a project.

Commissioner Schertler made a comment using the Ford site as an example, saying that the site would require public roads for redevelopment – who pays? It would be helpful to have some sense from Public Works' perspective regarding appropriate allocation of responsibility consistent with City fiscal policy.

Ms. Erickson said that the Committee and staff have not had enough experience with this new process to give a definitive answer, but the Committee will continue to wrestle with these

important issues. She reminded the Commission that this is a working draft, and that there will be more Planning Commission vetting as we move forward.

***MOTION: Commissioner Spaulding moved the Transportation Committee's recommendation to approve the resolution approving the process documents and recommending their use by the Department of Public Works. Commissioner Lindeke seconded the motion. The motion carried unanimously on a voice vote.***

Commissioner Spaulding announced that the next Transportation Committee meeting will be Monday, July 16, 2012.

#### **VI. Comprehensive Planning Committee**

Commissioner Reveal said that, at their last meeting they discussed the Urban Agricultural Study and reviewed the public comments. Staff will prepare a report and that will be coming to the Planning Commission in the future. The Committee agreed to meet at 3:30-5:00 p.m. instead of 4-5:30p.m.

Commissioner Merrigan announced the next Comprehensive Planning Committee meeting is on Tuesday, July 10, 2012.

#### **VII. Neighborhood Planning Committee**

Commissioner Oliver announced the items on the agenda for the next Neighborhood Committee meeting on Wednesday, July 18, 2012.

#### **VIII. Communications Committee**

No report.

#### **IX. Task Force Reports**

Commissioner Schertler announced that the dates are set for the Ford Task Force meetings, which will be on Monday, August 13, 2012, Monday, October 29, 2012 and Monday, December 3, 2012 at the Ford Center. Demolition begins this summer. There has been some interest in preserving the Training Center. Ford doesn't object to retaining the structure as long as the cost to maintain it is borne by some entity other than Ford.

Donna Drummond explained that the cost of separating out the utilities for just that building was about \$500,000, which is significant. Also, there has not been a clear identified use for it in the future.

Commissioner Reveal asked if Ford sent out the RFP for the master planning yet.

Ms. Drummond replied no. Several activities are underway that must occur prior to issuance of the RFP. The Zoning Framework Study is underway; those recommendations will be reviewed by the task force at the October meeting and finalized in December. The Alternative Urban Areawide Review will start later this year; more environmental testing has to happen once the buildings come down.

Commissioner Reveal said that it strikes her as difficult to do a Zoning Feasibility Study in the absence of a master plan.

Ms. Drummond said what the Zoning Framework Study is evaluating is looking at the five development scenarios that were developed under the leadership of the Ford Task Force and making sure they have the correct zoning tools in the zoning code to implement any of those five scenarios. The purpose of the study is not to make recommendations on what the property should be rezoned.

Commissioner Reveal said that they are going to want to re-examine that when there actually is a master plan, and potential developer. It would be premature to do significant zoning changes until there is some idea of what the use is going to be.

Ms. Drummond agreed, and said that it will be an interesting process to determine in working with a master developer whether or not the City wants to be more proactive in establishing a vision for the area and putting zoning in place to implement that vision, or working with the master developer to see what is possible given the market.

**X. Old Business**

None.

**XI. New Business**

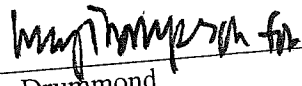
None.

**XII. Adjournment**

Meeting adjourned at 9:55 a.m.

Recorded and prepared by  
Sonja Butler, Planning Commission Secretary  
Planning and Economic Development Department,  
City of Saint Paul

Respectfully submitted,

  
Donna Drummond  
Planning Director

Approved \_\_\_\_\_  
(Date)

\_\_\_\_\_  
Daniel Ward II  
Secretary of the Planning Commission

Revised 7/26/12

**AGENDA  
ZONING COMMITTEE  
OF THE SAINT PAUL PLANNING COMMISSION  
Thursday, August 2, 2012 3:30 P.M.  
City Council Chambers, Room #300  
Third Floor City Hall - Saint Paul, Minnesota**

**NOTE:** The order in which the items appear on this agenda is not necessarily the order in which they will be heard at the meeting. The Zoning Committee will determine the order of the agenda at the beginning of its meeting.

**APPROVAL OF JUNE 21, 2012, ZONING COMMITTEE MINUTES**

**SITE PLAN REVIEW** – List of current applications (Tom Beach, 651-266-9086)

**OLD BUSINESS**

- 1     **12-065-215 Providence Development LLC**  
Enlargement of the upper two units of a nonconforming 4-plex into unfinished attic space  
890 Goodrich Ave, between Victoria and Milton  
RT1  
Mary Matze   651-266-6708

**NEW BUSINESS**

- 2     **12-079-791 Juliette Cherbuliez**  
Establishment of legal nonconforming status as a duplex  
2343 Carter Ave, between Gordon and Keston  
R3  
Mary Matze   651-266-6708
- ~~3     **12-076-424 City of Saint Paul Parks and Recreation (Lilydale Park)**  
Conditional use permit for roadway, bridge, and placement of fill in Floodway  
720 Water St W, NE of the C P and O rail road bridge  
R4  
Josh Williams 651-266-6659~~
- 4     **12-083-282 Pastor Irene Stockett**  
Conditional use permit for transitional housing with up to 6 residents, including the  
owner  
1093 Edgerton St, between Jessamine and Magnolia  
R4  
Kate Reilly   651-266-6618

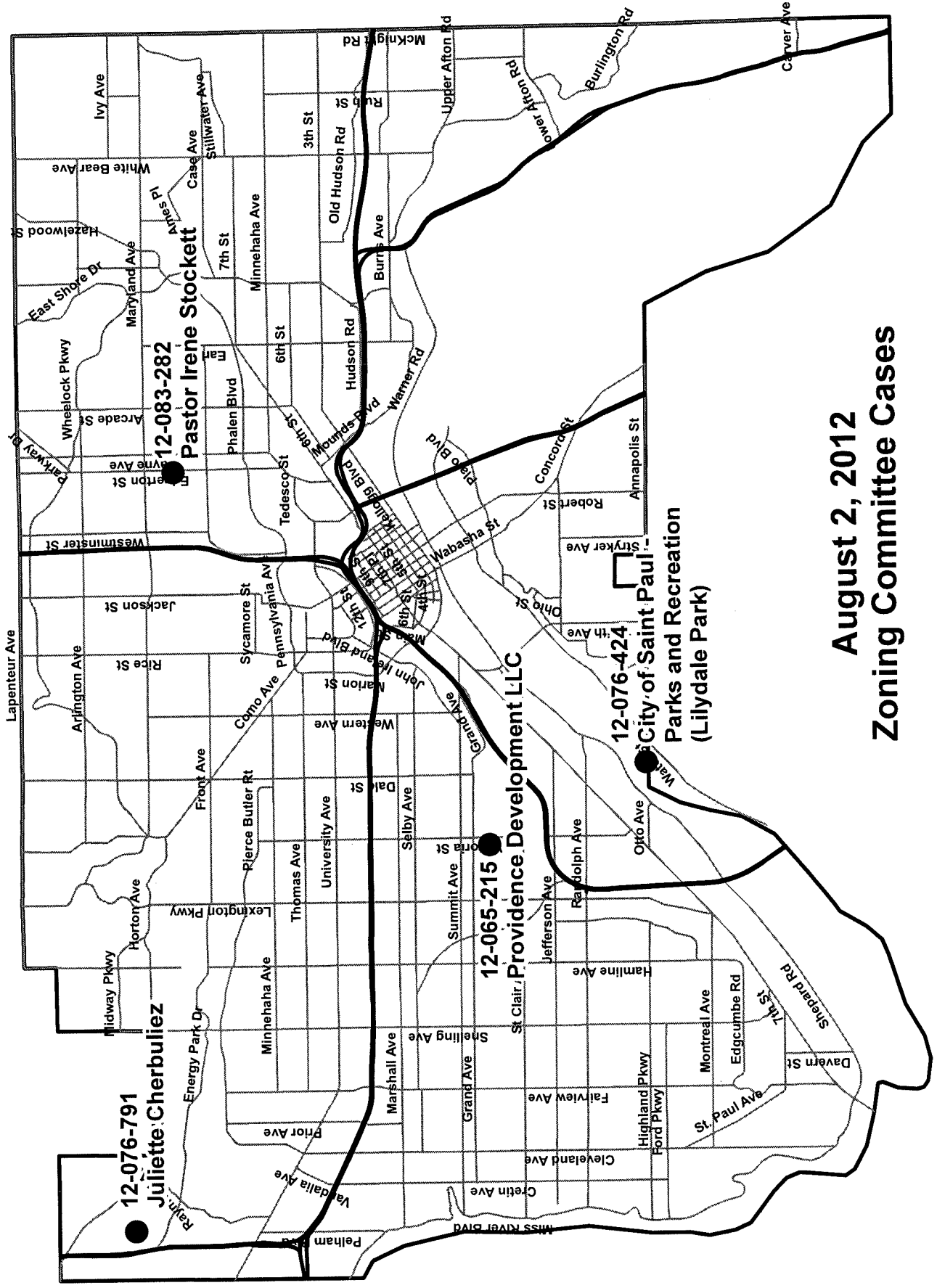
**ADJOURNMENT**

Information on agenda items being considered by the Zoning Committee can be found online at [www.stpaul.gov/ped](http://www.stpaul.gov/ped), then Planning, then Zoning Committee.

**ZONING COMMITTEE MEMBERS:** Call Patricia James at 266-6639 or Samantha Langer at 266-6550 if you are unable to attend the meeting.

**APPLICANT:** You or your designated representative must attend this meeting to answer any questions that the committee may have.





**August 2, 2012  
Zoning Committee Cases**

**12-076-791  
Juliette Cherbuliez**

**12-065-215  
Providence Development LLC**

**12-083-282  
Pastor Irene Stockett**

**12-076-424  
City of Saint Paul  
Parks and Recreation  
(Lilydale Park)**

## ZONING COMMITTEE STAFF REPORT

FILE # 12-065-215

HEARING DATE: August 2, 2012

1. **FILE NAME:** Providence Development LLC
2. **APPLICANT:** Providence Development LLC
3. **TYPE OF APPLICATION:** NUP - Enlargement
4. **LOCATION:** 890 Goodrich Ave, between Victoria and Milton
5. **PIN & LEGAL DESCRIPTION:** 022823340006; Haldemans Addition E 30 Ft Of Lot 9 And All Of Lot 8 Blk 1
6. **PLANNING DISTRICT:** 16
7. **ZONING CODE REFERENCE:** Sec. 62.109(d)
8. **STAFF REPORT DATE:** June 13, 2012 **REVISED 7-24-12**
9. **DATE RECEIVED:** 5-31-12 **60-DAY DEADLINE FOR ACTION:** 7-30-12 **EXTENDED TO 9-10-12**

**PRESENT ZONING:** RT1

**BY:** Mary Matze

- 
- A. **PURPOSE:** Enlargement of the upper two units of a nonconforming 4-plex into unfinished attic space
- B. **PARCEL SIZE:** 70 ft. (Goodrich) x 150 ft. = 10,500 sq. ft.
- C. **EXISTING LAND USE:** R-Three/Four Family
- D. **SURROUNDING LAND USE:**  
North: Mixed Density Residential (RT1)  
East: Single Family Residential (RT1)  
South: Single Family Residential (R4)  
West: Single and multi family Residential (RT1)
- E. **ZONING CODE CITATION:** Sec. 62.109(d) lists the conditions under which the Planning Commission may grant a permit to enlarge a legal nonconforming use.
- F. **HISTORY/DISCUSSION:** On April 17, 2012, the applicant requested a determination of legal nonconforming status from the Zoning Administrator for living space in the attic. The application was denied because there was insufficient proof of continuous occupancy of this space. On May 31, 2012, this application for Enlargement of a Nonconforming Use was submitted by the applicant. There are no other zoning-related actions on record for this property.
- G. **DISTRICT COUNCIL RECOMMENDATION:** The District 16 Council recommends approval of an Enlargement of a nonconforming use permit subject to the City of St. Paul's finding that the unit is currently a legal non-conforming 4-plex.
- H. **FINDINGS:**
1. This property is currently arranged as a four-plex with two one-bedroom units on the lower level and two one-bedroom units on the second floor. The applicant wishes to add living space to the second floor apartments by remodeling unfinished attic space to create two additional bedrooms for each unit. There will not be any changes to the exterior of the building, and the owner will not be adding any additional units. The applicant is required to get an Enlargement of a Nonconforming Use Permit for the increased living space.
  2. After questions were raised at the public hearing on June 21, the Zoning Committee determined that the legal nonconforming state of the 4 units was unclear and that a Zoning Administrator determination was needed. Based on the findings of the Zoning Administrator on July 24, 2012, which are adopted and incorporated into this report by reference, the use of 890-891 Goodrich as a non-conforming four-plex has been discontinued and therefore, the property must now be used in conformance with the RT1 district, either as a single family dwelling unit or as a duplex, unless the planning commission approves a permit to reestablish

a non-conforming four-dwelling unit.

3. Section 62.109(d) Enlargement of nonconforming use states that [t]he planning commission may permit the enlargement of a nonconforming use if the commission makes the following findings:

1. The enlargement will not result in an increase in the number of dwelling units. This finding is not met. The structure's status as a legal nonconforming four-plex has lapsed.
2. For enlargements of a structure, the enlargement will meet the yard, height and percentage of lot coverage requirements of the district. The structure will not be enlarged, so no change to the height, setback, or coverage is proposed. However, the property cannot be used as a four-plex without Planning Commission approval of a permit to re-establish four units in the building.
3. The appearance of the enlargement will be compatible with the adjacent property and neighborhood. This finding is met. No change to the exterior of the building is proposed.
4. Off-street parking is provided for the enlargement that meets the requirements of section 63.200 for new structures. This finding could be met. However, the property cannot be used as a four-plex without Planning Commission approval of a permit to re-establish four units in the building.
5. Rezoning the property would result in a "spot" zoning or a zoning inappropriate to surrounding land use. This finding is met. Rezoning this lot is inconsistent with the established zone boundary.
6. After the enlargement, the use will not result in an increase in noise, vibration, glare, dust, or smoke; be detrimental to the existing character of development in the immediate neighborhood; or endanger the public health, safety, or general welfare. This finding could be met. Enlargement of the second floor units will not result in increased noise, vibration, glare, dust, or smoke. However, the property cannot be used as a four-plex without Planning Commission approval of a permit to re-establish four units in the building.
7. The use is consistent with the comprehensive plan. This finding is met. The Comprehensive Plan supports including a mix of rental and ownership units and a range of housing types (Strategy 1.1, p.7). The District 16 plan supports the maintenance of rental housing units within the neighborhood to continue some measure of affordability (Strategy H12, p. 4.). However, the property cannot be used as a four-plex without Planning Commission approval of a permit to re-establish four units in the building.
8. A notarized petition of two-thirds of the property owners within one hundred (100) feet of the property has been submitted stating their support for the enlargement. This finding is met. The petition was found sufficient on May 31, 2012: 18 parcels eligible; 12 parcels required; 12 parcels signed.

- I. **STAFF RECOMMENDATION:** Based on findings 2 and 3 above, staff recommends denial of the enlargement of living space into existing unfinished attic space at 890-891 Goodrich.



CITY OF SAINT PAUL  
Christopher B. Coleman, Mayor

July 24, 2012

Zoning Committee  
Saint Paul Planning Commission  
25 W. 4<sup>th</sup> St., Suite 1400  
Saint Paul, MN 55102

Re: 890-892 Goodrich Ave.  
Nonconforming Use Permit Application #12-065-215

Dear Committee Members:

At your June 21, 2012 public hearing, you laid over the referenced case to have me review the use of the property to determine whether or not this is a legal nonconforming four-unit dwelling. Although this office previously indicated that the property was legal for four dwelling units, in reviewing the available information it appears that that decision was incorrect and I am reversing the approval for a four-unit dwelling.

This building was constructed in 1890, apparently as a side-by-side duplex. In 1935, a building permit was issued to remodel the building into four dwelling units. In 1975, as part of a new city-wide zoning ordinance, this property was zoned RT1, a two-family residential zoning district which did not permit residential uses with more than two dwelling units. Section 62.102 of the zoning code states that if a building permit was issued by the city prior to October 25, 1975 for a use no longer allowed, the use will be presumed to be legally nonconforming. Therefore, the use of this property as four dwelling units became legally nonconforming in 1975, legally established but not in conformance with the new zoning code.

Sec. 62.106 provides regulations that apply to nonconforming uses. Paragraph (g) states:

When a nonconforming use is discontinued or ceases to exist for a continuous period of three hundred sixty-five (365) days, the building, or building and land in combination, shall thereafter be used in conformance with the regulations of the district in which it is located, unless the planning commission approves a permit to reestablish the nonconforming use as set forth in section 62.109(e).

A "use" is the principal purpose for which a building is being occupied. The four dwelling units continued to exist since 1935 but it is my decision that the use as four occupied dwelling units was discontinued for more than 365 days. This decision was based on three reasons: 1) one unit was occupied by the former owner but there was no evidence submitted

that the other three units had a continued occupancy since 1975; 2) there was never a certificate of occupancy for the building, required for any residential building with three or more dwelling units; and 3) there was no evidence submitted to suggest that the owner was actively trying to rent out the other three dwelling units in recent years nor was she actively working to make the necessary repairs to bring the building into compliance with the certificate of occupancy requirements.

Because the use as a four-unit dwelling was discontinued for more than 365 days, this property must now be used in conformance with the regulations of the district in which it is located, as either a single family dwelling or a duplex, unless the planning commission approves a permit to reestablish the nonconforming four-unit dwelling as set forth in Sec. 62.109(e).

Sincerely,



Wendy Lane  
Zoning Administrator

c: Greg Hjelle

## Request for Continuance

Date 6/28/12

Gaius Nelson, Chair  
Zoning Committee  
City of Saint Paul  
1400 City Hall Annex  
Saint Paul, Minnesota 55102

*Mary Hatzel: 651-228-3341*

Re: Zoning File # 12-065-215 Providence Development LLC

*Marked  
6/28/12*

14th Floor

Zoning

Dear Mr. Nelson:

I am the applicant or the applicant's duly appointed representative for this zoning file.

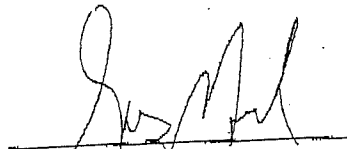
I request a continuance of the public hearing on the application in this zoning file, which is presently scheduled before the Zoning Committee on June 21, 2012.

I understand that a continuance of the public hearing before the Zoning Committee means that the decision of the Planning Commission on this application, which is presently scheduled for June 29, 2012, will also be continued.

I request that the Zoning Committee continue the public hearing for this zoning file to August 2, 2012. I understand that the Planning Commission would then be scheduled to make their decision on August 10, 2012.

I am aware of and understand the statutory requirements found in Minn. Statue § 15.99 (1995) requiring the City of Saint Paul to approve or deny this application within sixty days of its submission. I desire to extend the sixty day period for a City decision under Minn. Stat. §15.99 by 42 days to September 10, 2012, to accommodate the continuance I am requesting.

Sincerely,

  
\_\_\_\_\_  
Signature of Applicant or  
Applicant's duly appointed  
representative.

GREG H. JELLE  
\_\_\_\_\_  
Printed name of Applicant or  
Applicant's duly appointed  
representative.



Department of Planning and Economic Development  
Zoning Section  
1400 City Hall Annex  
25 West Fourth Street  
St. Paul, MN 55102

May 31<sup>st</sup>, 2012

Re: 892 Goodrich Ave. Expansion of Non-Conforming Use

I am proposing to add living space to the existing un-finished attic space above the upper two units. I am providing evidence that all of the conditions listed in the code (1-8) are met.

- We will not be increasing the number of dwelling units; there are currently 4 units and I will not be adding any additional units.
- There will be no enlargements of the structure, we will use the existing structure without any structural changes; the enlargement will meet the yard, height, and percentage of lot coverage requirements of the district.
- The appearance of the enlargement will be compatible with the adjacent property and neighborhood because there will be no change in the appearance of the enlargement; we will be using existing attic space.
- Off-street parking will be provided for this building. There is a 4-car garage in the rear which I will convert to four individual spaces; this is not a new structure.
- Rezoning the property would result in a spot zoning inappropriate to the surrounding land uses.
- After the enlargement into the attic space there will be no increase in noise, vibration, glare, dust or smoke. The proposed use will not be detrimental to the existing character of development in the immediate neighborhood; or endanger the public health, safety, or general welfare.
- The use is consistent with the comprehensive plan
- I have included a notarized petition of two-thirds of the property owners within 100 feet of the property stating support for the proposed use.

Sincerely,

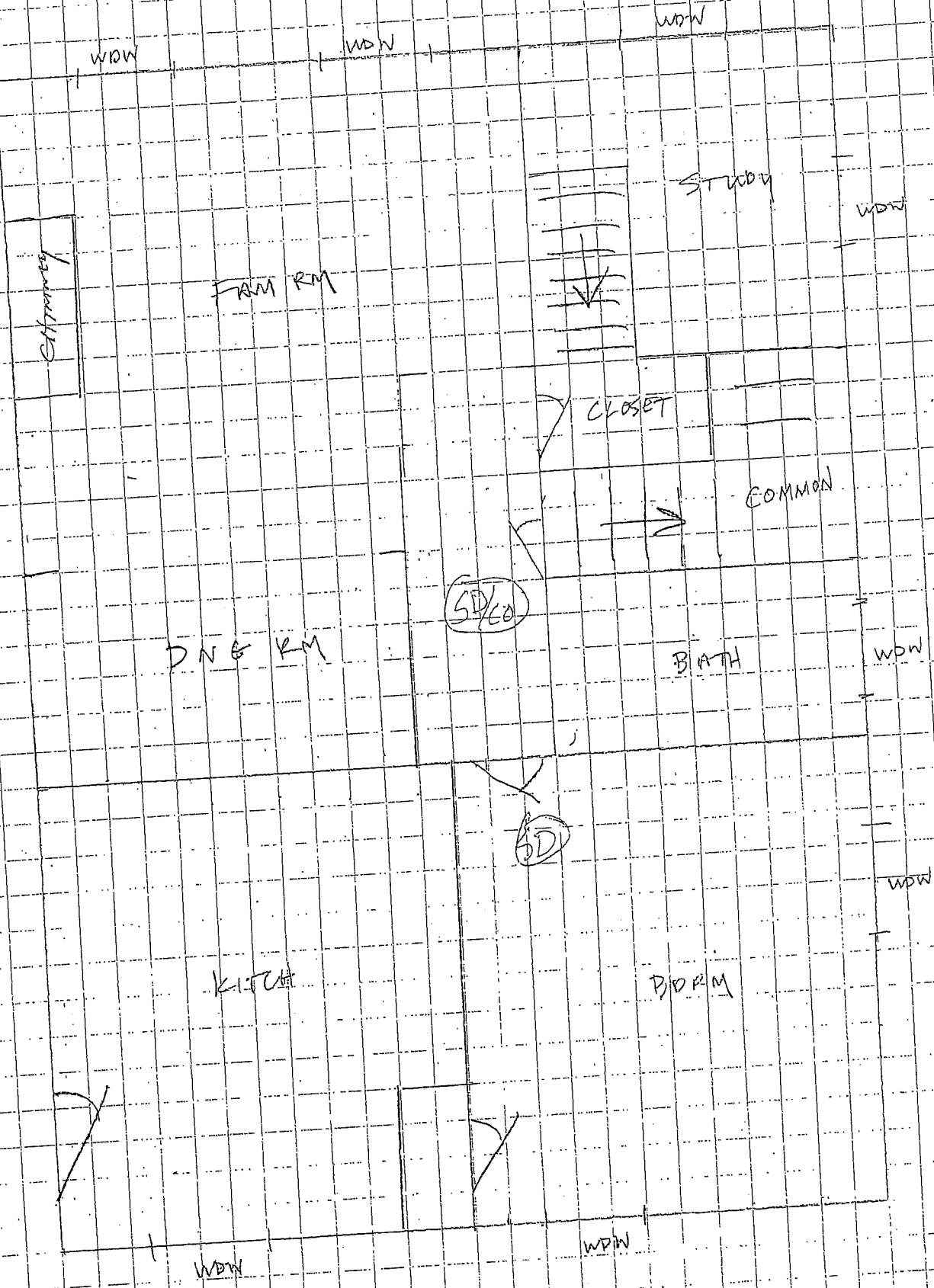
Greg Helle  
Providence Development LLC

612.209.2698

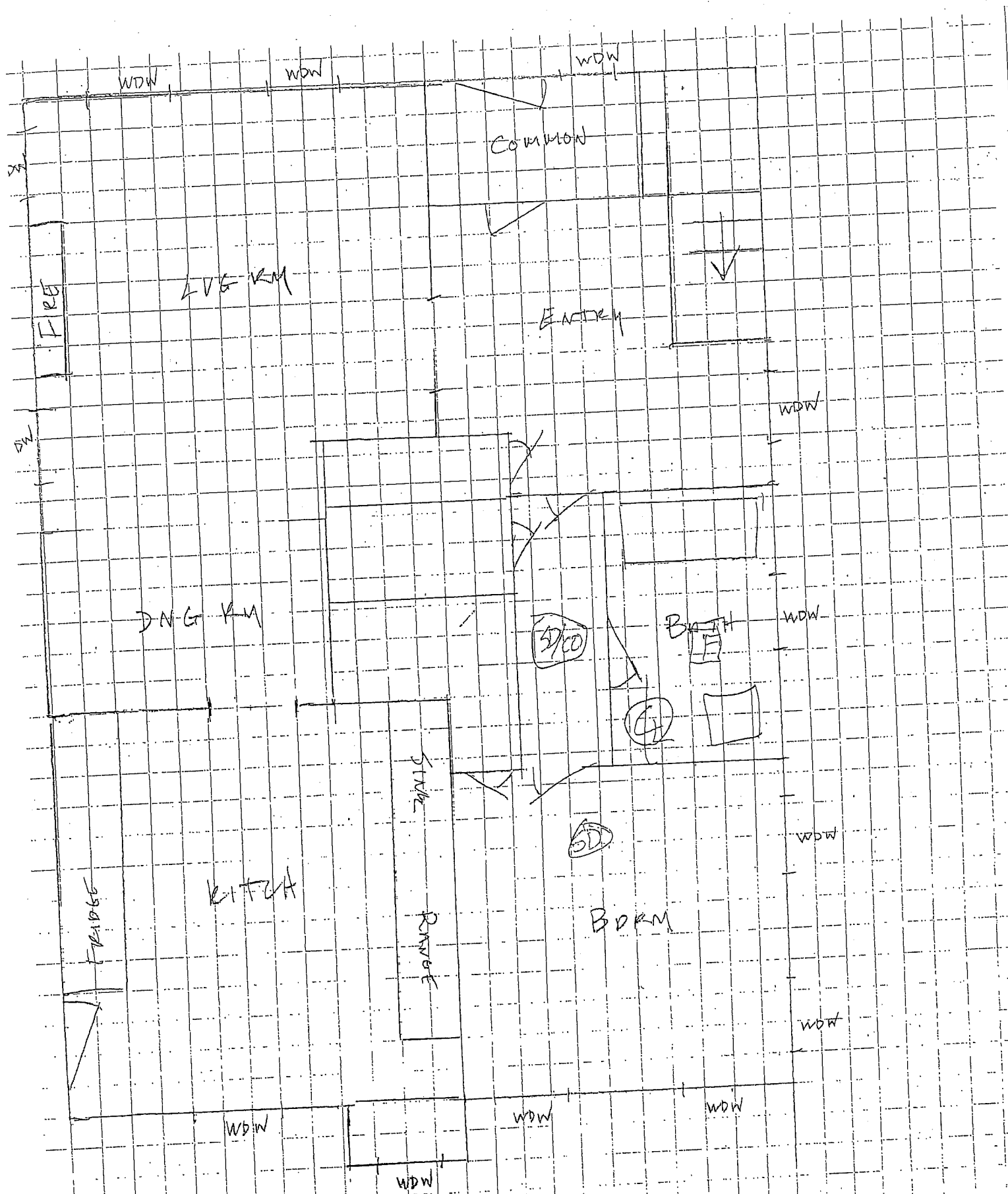
greg@provdev.com



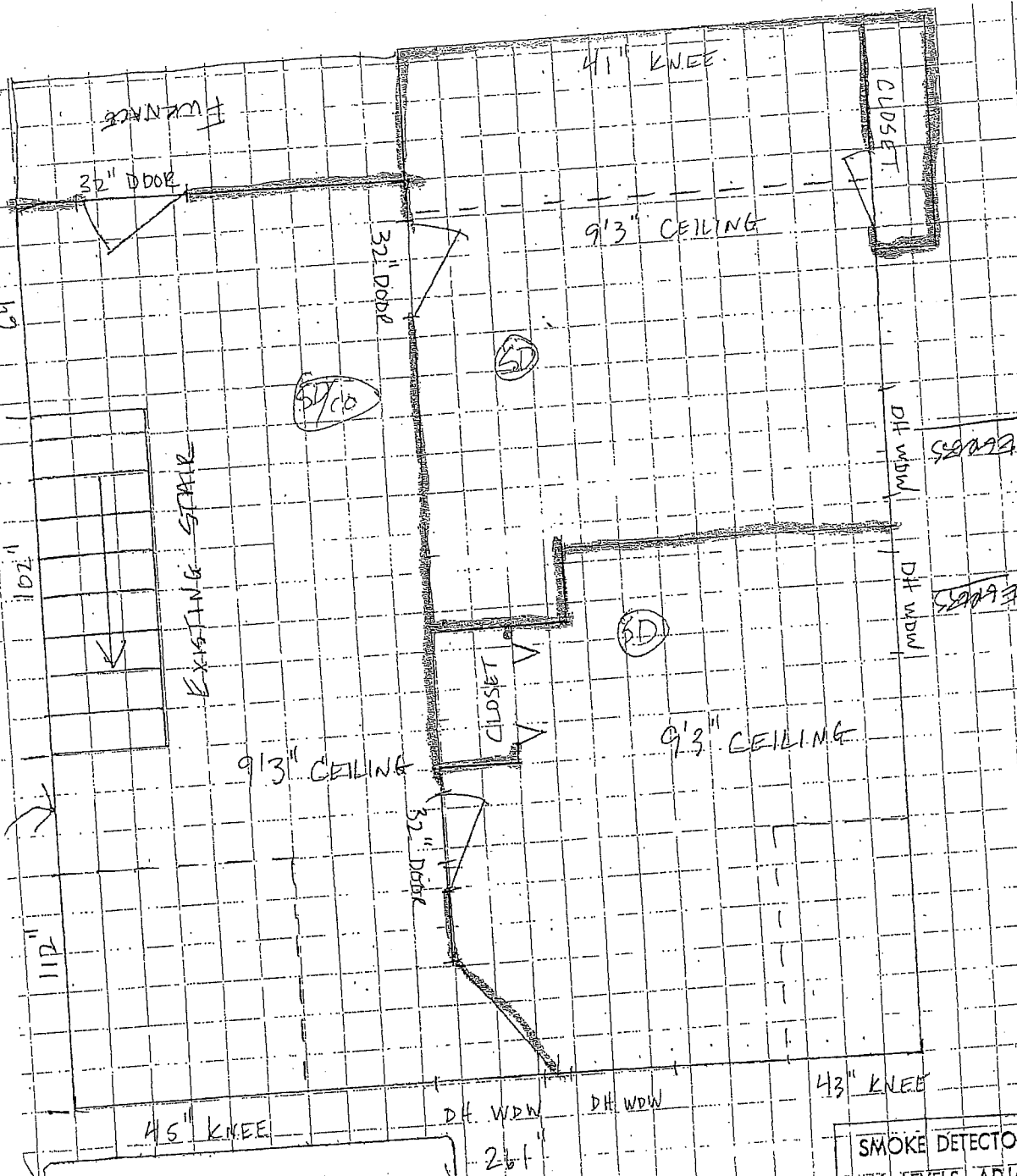




UPPER EAST UNIT - 9' CEILING



LOWER EAST UNIT - 9' 6" CEILING



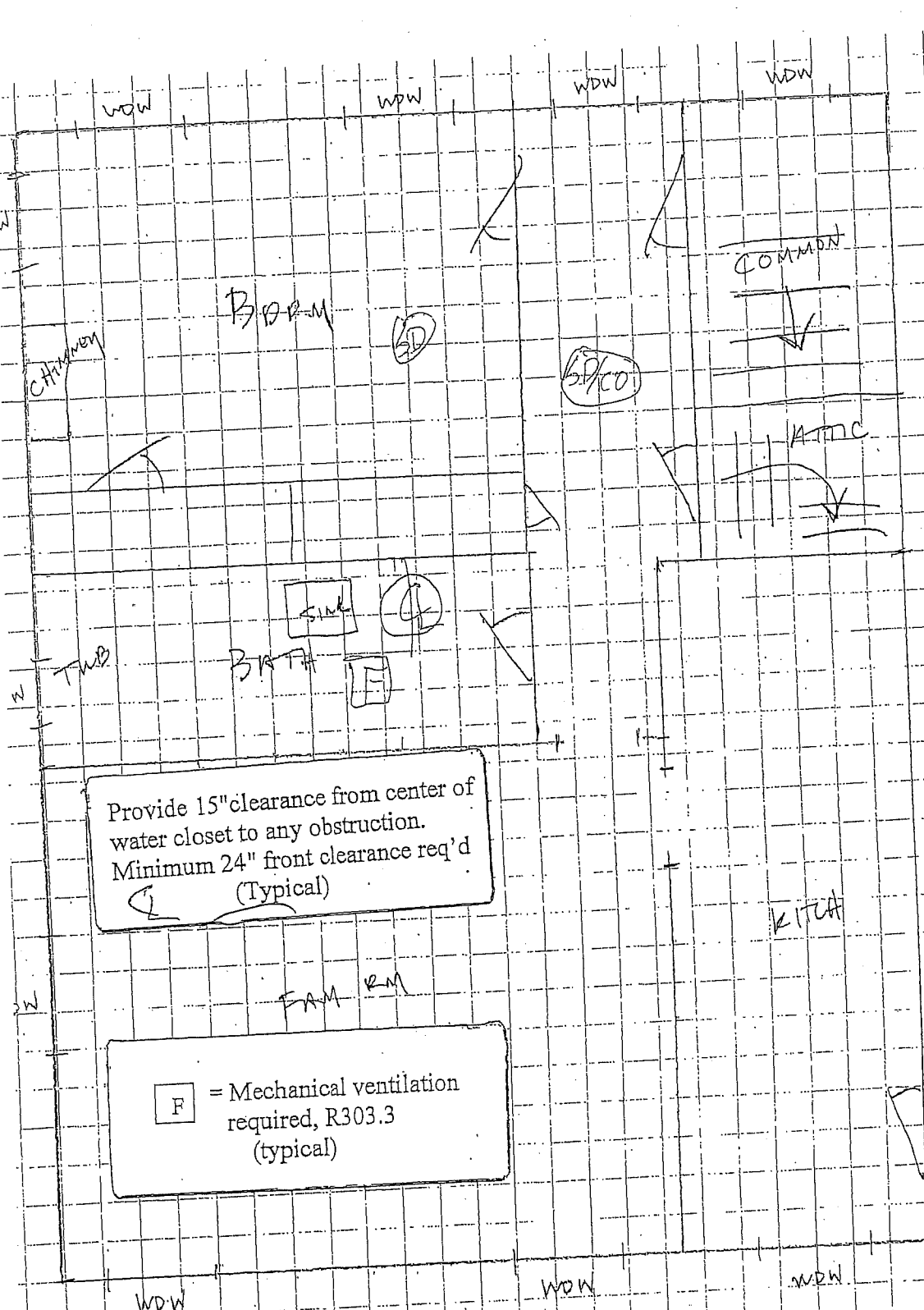
Minimum 1 hour fire-resistance rating with exposure from both sides required. (TYP.)  
(See attached handout)

SMOKE DETECTORS REQUIRED ON ALL LEVELS, ADJACENT TO AND IN ALL SLEEPING ROOMS (NEW CONSTRUCTION REQUIRES HARDWIRED & INTERCONNECTED DETECTORS)

# ATTIC WEST

ESCAPE RESCUE WINDOW REQUIRED - MINIMUM 5.7 SQUARE FEET OF NET CLEAR OPENING  
VERIFY SIZE WITH INSPECTOR BEFORE INSTALLATION

Carbon Monoxide Alarm required per MN Statute 299F.50 & 299F.51. See Handout for required locations. (Typical)



Provide 15" clearance from center of water closet to any obstruction.  
Minimum 24" front clearance req'd  
(Typical)

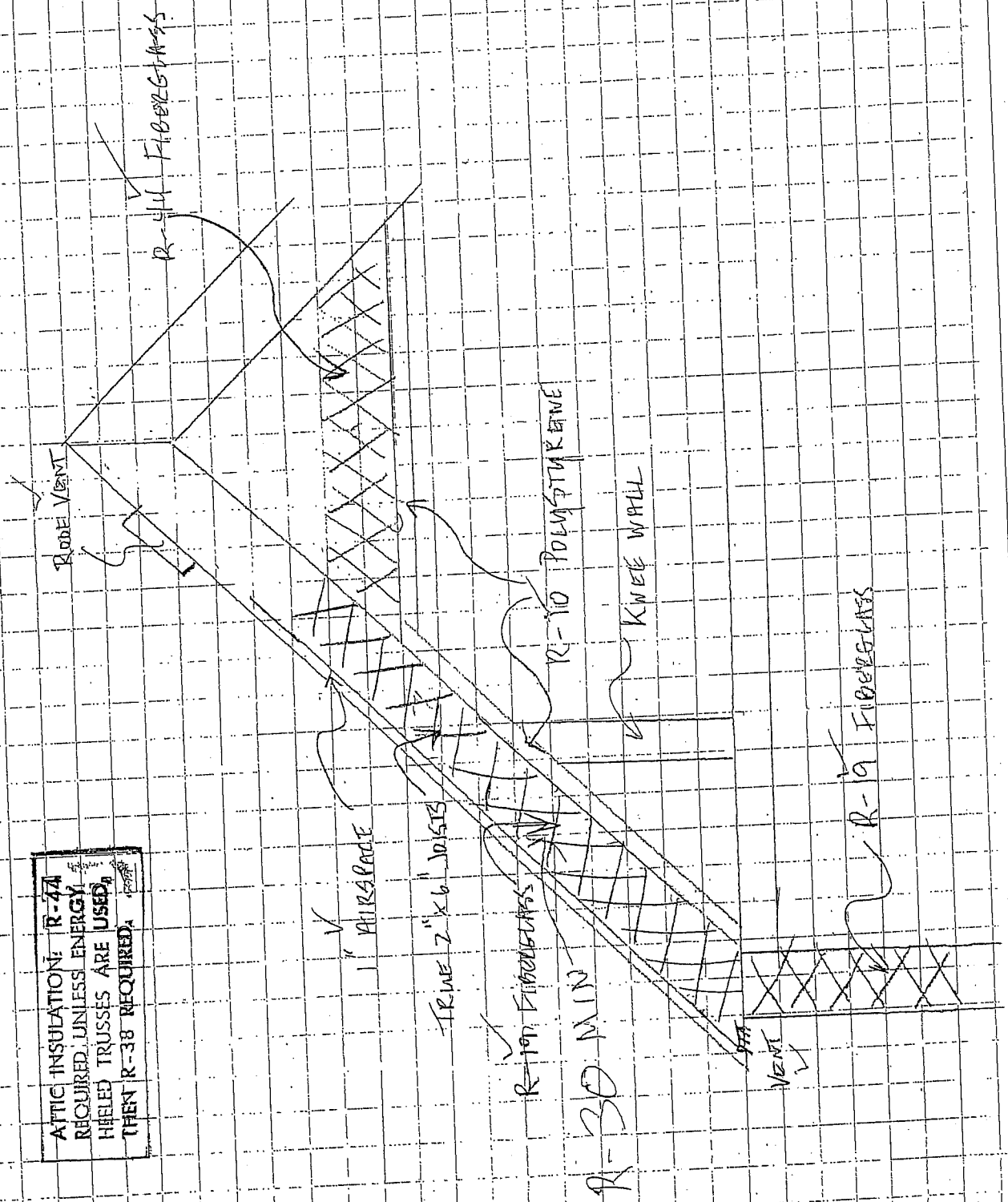
F = Mechanical ventilation required, R303.3 (typical)

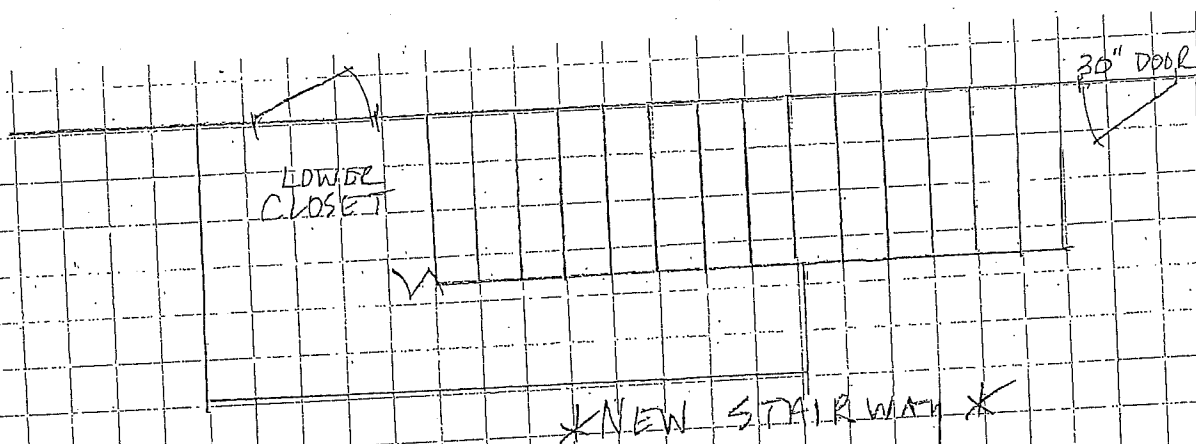
## UPPER WEST UNIT - 9' CEILING

NOTE: MOISTURE-RESISTANT SHEETROCK CAN NOT BE USED ON EXTERIOR WALLS OF BATHROOMS & KITCHENS. USE OF A CEMENTITIOUS-TYPE BOARD, WITH A VAPOR "BARRIER" BENEATH, IS REQUIRED



ATTIC INSULATION: R-44  
REQUIRED UNLESS ENERGY  
CODE TRUSSES ARE USED,  
THEN R-38 REQUIRED.





{ RUN = 10"  
RISE =  $2\frac{3}{4}$ "  
STAIR WIDTH = 42"  
3 - 2" x 12" STRINGERS  
LOWER LANDING - 36" x 42"

Provide all floor, header, & roof truss specifications on site for building inspectors reference.

10" RUN 3 1/4" RISE

LANDING FRAMING

LEADER

3-2x12 STRINGER

OUTSIDE EDGE SUPPORTED BY WALL FRAMING

NEAR SIDE ATTACHED TO WALL FRAMING

Handrail FLOORLINE

2x8 FLOOR JOISTS + 16" OC

GUARDRAIL REQUIRED - MINIMUM 36" HIGH WITH MAXIMUM 4" BETWEEN INTERMEDIATE RAILS (INDIVIDUAL DWELLING UNITS OR WITHIN APARTMENT'S UNITS)

Provide interior and exterior stairway illumination including the landing and treads. R303.6

STAIRS  
3/4" MAXIMUM RISE  
10" MINIMUM RUN  
4 OR MORE RISERS REQUIRE A GRIPPABLE HANDRAIL 1 1/4" TO 2" DIA.

1ST LEVEL

2x8 RAIL JOIST

FOUNDATION

Basement

2ND LEVEL

ENGINEER'S CHAIR



# ZONING WORKSHEET

ADDRESS: 890-892 Goodrich  
 PIN: 02-28-2334-0006 list 7

## BUILDING CARD INFORMATION:

CONSTRUCTION DATE: 3-3-1890 PERMIT: 5-29-90 TYPE OF STRUCTURE: dwl

### PERMITS

### COUNTY ASSESSOR'S RECORDS

### LICENSE RECORDS

### CITY DIRECTORY

1922 double  
 1933 3 units  
 1936 4 units (one occupied by owner)  
 1951  
 1970 4 units  
 1986 "  
 1991 "

1989-2112 max car load address

LEGAL DESCRIPTION: E 30 ft. of lot 9 tall of lot 8, Blk 1 Hendersons Add

LOT SIZE: 10,500

CROSS STREETS: Victoria - Milton

ZONE	USE (C/NC)	UNITS PERMITTED	REQUIRED LOT SIZE	LOT SIZE (C/NC)
X	C			C
1922				
1960				
1964 B Res	nc			
1975 R-4	NC	ROOMS: UNITS:		

ZONING STATUS FOR 4 units COMMERCIAL USE:  
 RESIDENTIAL USE:

### PLANNING:

ZONING FILE

NO RECORD

LEGAL - CONFORMING

LEGAL - CONFORMING USE WITH NON-CONFORMING LOT SIZE  
 (for residential)

LEGAL - NON-CONFORMING USE

ILLEGAL

3-26-96  
 KFE

# Summit Hill Association

District 16 Planning Council  
860 Saint Clair Avenue  
Saint Paul, Minnesota 55105  
Telephone 651-222-1222  
Fax 651-222-1558  
www.summithillassociation.org  
e-mail: summithill@visi.com

June 20, 2012

Mary Matze - Planning Staff  
St. Paul Planning Commission  
1400 City Hall Annex - 25 W. 4<sup>th</sup> St.  
St. Paul, MN 55102

**RE: Zoning File #12-065-215 -- 890-892 Goodrich Ave.**

Dear Members of the Planning Commission:

The Summit Hill Association - Zoning & Land Use Committee (ZLU) held a neighborhood public hearing on June 19, 2012 regarding an application from the owners of the property at 890-892 Goodrich Ave., zoned RT1, who are proposing to add living space to the existing unfinished attic space above the upper two apartment units. According to documents submitted by the applicants, the property is currently a legal nonconforming 4-unit apartment building. If accurate, this expansion would require an Enlargement of a Nonconforming Use.

The Summit Hill Association solicited input from surrounding residents within 350 feet, and received comments both in support and in opposition to the application.

Previous to the hearing, SHA became aware that there are several documents held by St. Paul PED and DSI that are in conflict with each other as to whether this property is in fact a 4-plex and whether it currently remains a legal nonconforming property.

As the 890-892 Goodrich property has been showing the wear of deferred maintenance for many years; the possibility of exterior and interior improvements to 890-892 Goodrich would certainly improve the look of the dwelling and likely be welcomed by nearby neighbors. Owners of one household adjacent to the property voiced their strong support of the application & project citing the many years they have watched the property deteriorate and how this impacts the block and the value of their own home.

And yet, at the June 19<sup>th</sup> hearing, concerns were raised by several other neighbors as to whether, in fact, this property still remains a legal non-conforming 4-plex or that instead, the property may have had only one occupant - the previous owner Mildred Stone - living at the property since approximately 1991. These neighbors presented a packet of documents showing the historic discrepancies, asserting that any non-conformity had been "abandoned" due to the long-time single occupancy at 890-892 Goodrich. These residents also submitted the signatures of nearly 20 local residents on a counter petition opposing the application.

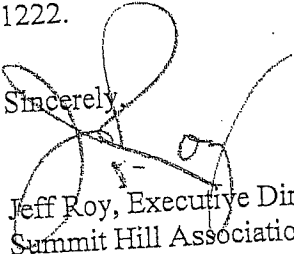
The Summit Hill Association strives to base zoning recommendations on City code requirements, findings, and all available information. However, as noted above, the current classification status of the property appeared to be in question. The ZLU understood that zoning and fire inspections staff

were scheduled to inspect the property on Wed., June 20, 2012 at 1 p.m. to inquire further, but that information was unavailable at the time of the June 19<sup>th</sup> meeting.

After full discussion, the SHA - Zoning & Land Use Committee approved a motion, on a vote of 3 in favor and 1 abstention, to recommend to the St. Paul Planning Commission - Zoning Committee that the Zoning File #12-065-215 application be approved subject to the City of St. Paul's determination that in fact this property is a legal non-conforming 4 plex.

If you have any questions about the discussion or recommendation, you may contact me 651-222-1222.

Sincerely,

  
Jeff Roy, Executive Director  
Summit Hill Association/District 16 Planning Council

cc: Greg Hjelle and Chris Johnson - Providence Development  
Greg Cruz  
Anna and Marty Oyen  
Dave Thune, Ward 2 Councilmember  
SHA ZLU Committee Members

**Matze, Mary (CI-StPaul)**

**From:** Ann Oyen <aoyen@comcast.net>  
**Sent:** Wednesday, June 20, 2012 3:31 PM  
**To:** Matze, Mary (CI-StPaul)  
**Subject:** File # 12-065-215, Providence Development LLC

Dear Members of St. Paul's Zoning Committee:

As longtime next door neighbors to the property at 890-892 Goodrich Avenue, we are very much in favor of the improvements being proposed by Providence. We explained our perspective on Providence's proposal in the following e-mail sent to the Summit Hill Association's Zoning Committee. We are now forwarding the e-mail to you for your consideration.

Begin forwarded message:

**From:** Ann Oyen <aoyen@comcast.net>  
**Date:** June 18, 2012 3:55:33 PM CDT  
**To:** [summithill@visi.com](mailto:summithill@visi.com)  
**Subject:** Public Zoning Hearing, 6/19/12

Re: Proposed Improvements at 890-892 Goodrich Avenue

From: Ann and Marty Oyen, 888 Goodrich Avenue, 651-222-3851

Dear Members of the Summit Hill Zoning Committee:

We are sending this e-mail as the longtime next door neighbors to the property at 890-892 Goodrich. We moved into our home at 888 Goodrich Memorial Day weekend, 1973. Sadly, we've watched the gradual deterioration of the property next door to us for the past 39 years.

Consequently, we were very encouraged when Greg Hjelle of Providence Development purchased the property last fall and began making internal improvements to the electrical, plumbing and heating systems. We were especially pleased with an external improvement in the front--- the installment of attractive retaining walls that create two levels of terraces which hold wonderful gardening/landscaping possibilities for the future. In addition, Mr. Hjelle has shared sketches of the finished project with us. We find these sketches to blend nicely with the existing architectural styles of the neighborhood, certainly a major improvement over the current appearance of the structure.

This past month we have been frustrated to learn that some residents in our neighborhood have objections to Mr. Hjelle's plans. Their objections mainly have to do with traffic and noise concerns. However, the property already has an existing four car garage, and street parking on Goodrich is closely regulated and monitored by a permit system. We understand that those who live on Fairmont might be concerned about some extra traffic in the alley, but these concerns seem minor compared to the large negative effect the current appearance of the structure has on the property values of those who live on Goodrich.

From our perspective, we are tired of passer-bys pointing at the house next door to us and wondering, "What's the story on that place?" We're tired of telling the story and explaining that in the past we actually offered to help the former owner with minor paint and porch repair projects, but that we found her to be a very proud and private person, who preferred to do the best she could with the means she had. We see Greg Hjelle's investment as a major step forward. It is the the best hope we have to improve the over all appearance of the neighborhood and the property values of those homes located adjacent to 890-892. We've waited 39 years for this positive development. We can't afford to wait longer for some hypothetical better deal.

Sincerely,  
Marty and Ann Oyen

**Matze, Mary (CI-StPaul)**

---

**From:** Mary Alton <alton003@umn.edu>  
**Sent:** Tuesday, June 12, 2012 9:50 PM  
**To:** Matze, Mary (CI-StPaul)  
**Subject:** File #12-065-215 - Providence Development

Ms. Matze -- Please forward my comments below to the Zoning Committee.

I have lived on the Goodrich block between Milton and Victoria for 34 years. I was delighted to learn several months ago that someone had purchased the property at 890-892. The property, as is, with its solo occupant, was fast becoming the only deteriorating eyesore on the block.

Having spoken to the developer, Greg Hjelle, and having received the public hearing notice, I am at a loss to understand why there is any objection at all to Mr. Hjelle's plans with this building. He is not creating, as I understand, two new apartments. He is enhancing two of the four apartments he will be offering for rent with existing space within the structure.

If what is holding this up is some draconian ordinance that purports to fit this situation, I would propose that someone figure out what the mischief the ordinance was designed to prevent and whether that mischief really exists under these circumstances. I, for one, am not persuaded that any substantive objections to Mr. Hjelle's actions are grounded in reality or common sense.

If, Ms. Matze, you are not the person who can get these comments to the Zoning Committee, please let me know who is. The postcard with the notice was not clear as to whether you could take questions or both comments and questions.

Thanks.

Mary Alton  
908 Goodrich  
St. Paul, MN 55105  
651-324-7664

To Whom It May Concern

Subject: The use of the House at  
890/892 Goodrich Ave, St. Paul,  
1979-2011

We are Linda and Sik-Toh Tung. For  
thirty-three years (1979-present) we live  
at 891 Fairmount Ave. across the alley (on  
the South side) from 890/892 Goodrich Ave.

When we moved into 891 Fairmount Ave  
in 1979, Mr. and Mrs. Stone lived at  
890/892 Goodrich Ave. with their three children.  
Sometime later, we heard about Mr. Stone's  
mother, whom we did not meet, living at the  
same address. Since then Mr. Stone's mother  
passed away, the children and Mr. Stone  
moved out.

Our recollection is that with the  
departure of her youngest child in the mid-1980's,  
Mrs Stone lived alone in 890/892 Goodrich Ave  
for 20-plus years up to the time she sold  
the property in November 2011

Signed: Linda A. Tung 6-17-2012  
Sik-Toh Tung 6/17/2012

John, here is the letter I sent to the planning commission.

— Forwarded Message —

From: Steve Larson <larson158@yahoo.com>

To: "Paul.dubruiel@ci.stpaul.mn.us" <Paul.dubruiel@ci.stpaul.mn.us>

Sent: Friday, June 15, 2012 11:02 AM

Subject: 890-892 Zoning variance public hearing

Dear Sirs,

My name is Steve Larson and I am writing to express my observations and concerns regarding the application for an expansion of the zoning variance at 890/892 Goodrich Ave. I own and live in the duplex directly across the street at 889 Goodrich Ave.

First, I would like to say that even though I did sign the petition to allow Mr. Hjelle to be heard in front of the planning commission, it was with some reservation that I signed. Though this property has been an eye sore on our block for many years and to see it improved would be very much welcomed, I do not want to see it done without regard for keeping the quality and standards that make our neighborhood a very unique and desirable place to live.

I did get a chance to walk through the property with Mr. Hjelle. I commend him on the improvements to the water, gas, electric, heating & air conditioning.

During our walk through, I noticed that one of the stairwells leading to the attic space where the bedrooms are being framed in was quite awkward in both height and width. I think this will become an issue when the framing inspection takes place and leads me to believe that there wasn't a lot of thought that went into making these extra bedrooms. Also, once in the attic area, there were in fact two more rooms framed in each space. Though this was described as an additional bedroom and a den, a room with a closet is in fact a bedroom and would most likely be used as such. This would of course lead to even more parking pressure on our street than is indicated in the requested variance expansion.

In addition, I was concerned that during our walk through there was talk of not insulating the exterior walls, even though many of them were exposed down to the lathe and 2"x 4" framing. I assume things like this are addressed during an inspection and that there is some requirement to insulate an exterior wall once it is exposed. But even if it's not required, that is the time to have it done. Could this be some indication of potential corner cutting in other areas? This concerns me because if the quality is not there, the quality of the renter will not be there.

In the letter from Mr. Hjelle requesting signatures for the variance petition, there is talk of stainless steel appliances and granite countertops. That can sound appealing but I felt like I was on an episode of "Flip this house." What good are stainless steel and granite if the exterior walls are not insulated and you have to duck your head to get to an upstairs bedroom? This may get a renter in but will not keep them long term and the turnover is not good for the neighborhood.



Also in his letter were intentions about the type of renter, how the building will be managed and whether there will be subsidized housing. Those are great intentions, unfortunately there is no guarantee they will not change in the future.

I would prefer not to have any more bedrooms framed in and to use that attic space as a family/entertainment room or maybe as one big bedroom at most. I understand the desire to generate as much income from a property as possible. I just want the scope of the project to be within the bounds of the variance and for the work to be completed in a quality manner. I do not want to see a bunch of bedrooms squeezed into an already stressed space in the hopes of maximizing income from more but potentially less desirable tenants. I think if the quality of construction and design are not there, the quality of renter will not be there and that is not something I want for our block.

Steven P. Larson

June 18, 2012

Clyde and Jan Deepener  
866 Goodrich Ave.  
St. Paul, MN 55105

RE: Proposed to changes at 890 – 892 Goodrich Ave.

We have lived at 866 Goodrich for 35 years. It is a well-established neighborhood with over 80 % of the neighbors having resided here as long as we have.

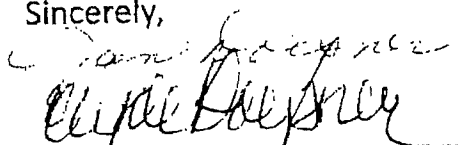
We feel the proposed change to the property at 890/892 Goodrich Avenue would be detrimental to the neighborhood and even lower our property values. We strongly agree with the facts and concerns listed in the petition that we have signed.

Sharing the same alley as Millie, who previously resided at this property, we know she was the only resident at that address for the past 25 years. It has been "alley humor" to note that the other 3 stalls in her garage were full of boxes to the rafters.

We daily walk the neighborhood and have comment about the ambience of our block. To add multiple vehicles in front of this residence, by adding apartments, would drastically affect the quality and character of our neighborhood.

We hoped Millie would have upgraded the appearance of her house, but never did we desire to have the house sold and turned into an apartment complex. The transition of people coming and going would totally change the charming character and safety of the neighborhood we have enjoyed for so many years.

Sincerely,

  
Clyde and Jan Deepener

**Matze, Mary (CI-StPaul)**

---

**From:** BRENNAN MCNALLY <brennanmcnally@msn.com>  
**Sent:** Monday, June 18, 2012 8:26 PM  
**To:** Matze, Mary (CI-StPaul)  
**Subject:** Non-conforming expansion 890-892 Goodrich Ave

Dear Ms. Matze,

I am writing regarding concerns over the request for enlargement of the upper two units of a non-conforming duplex into unfinished attic space at 890-892 Goodrich Ave. I live at 889 Fairmount Avenue, right behind 890-892 Goodrich.

My main concern is over adding any more density to the property beyond what is already allowed under the property's current status. I moved into Summit Hill with four young children (ages 8 - 12) 18 months ago. When I purchased my home, I knew the housing density was higher than most neighborhoods in St. Paul, with a number of multi-unit rental buildings. Our family enjoys the diversity and uniqueness of the neighborhood, and embrace the history and variety of housing options. However, increasing the neighborhood's density beyond what is already in place would begin to diminish the safety, quality of life, and balance in the neighborhood. I don't see a need to expand housing density given the number of existing multi-unit buildings.

Already the stretch of Goodrich between Milton and Chatsworth is dangerous for bikers, drivers and pedestrians given the volume of cars on both sides of the street. To expand the density further along Goodrich would only make navigating through the neighborhood - on foot, bike or in car - more hazardous.

Also, a recent communication from Greg Cruz, a neighbor on Goodrich Ave, pointed out that the status of the property as a four-plex may be in question. I strongly encourage the property's status as a duplex or four-plex be resolved, and cannot support expansion into attics or basements for additional bedrooms. I am confident the property can be rehabilitated into a profitable duplex or fourplex without having to add further occupancy space.

I appreciate your consideration and attention to my comments as the Planning Commission considers the request.

If you have any questions or would like additional comments, please call me at 651-695-1855.

Brennan McNally  
889 Fairmount Ave

St. Paul Planning Commission Zoning Committee  
Re: 890-892 Goodrich Ave.  
Date: June 18, 2012

To whom it may concern:

My name is John Otteson and I have lived at 873 Goodrich Ave. since 1980. I am writing to express my concerns regarding the application for an expansion of the zoning variance for 890-892 Goodrich. Ave.

1. Parking Concern – Parking has always been a big issue in our neighborhood. So much so, the block joined the Area 9 permit parking area to alleviate some of those challenges. This request to expand into the attic areas will only add to the problem of finding available space to park.
2. Zoning – There's a question whether the property reverted back to its original conforming use because it had been abandoned as a 4-unit. To my recollection, only one unit has been occupied for many years.
3. General Concern – We can all agree that the property needs to be rehabbed. When I first saw the landscaping work done, I was encouraged. Unfortunately, it has never been finished and it looks very unattractive. After talking with the developer, I am convinced he intends to do this project on the cheap. For example, he has no intention of restoring the exterior, other than just painting over the old asbestos siding.

This is an historic neighborhood and the neighbors have worked hard to maintain and preserve the character. Can't we expect the same thing from this developer?

Sincerely,

John Otteson  
873 Goodrich Ave. St. Paul  
C: 651-261-5807

DATE Thursday, June 21, 2012

FROM Barbara (Barbi) Byers  
883 Fairmount Avenue.  
Saint Paul, MN 55105  
651-227-0845 home  
651-235-0845 mobile  
barbarabyers@comcast.net

TO Saint Paul Planning Commission - Zoning Committee - Public Hearing  
File # 12-065-215

RE: 890-892 Goodrich Avenue

**I support improving the property at 890/892 Goodrich, bringing it up to code and welcoming new neighbors there.**

**I am concerned that a four-plex on three floors has potential for density of people (6-20) and cars (8-10). This potential density will negatively impact alley traffic, exiting garages, guest parking and permit parking on Goodrich Av. On the alley, my garage is near the 4 garages for 890-892 Goodrich. Crowded parking on Goodrich Av. will add more cars to Fairmount Av, one block south.**

**I request that zoning for "the duplex" at 890/892 Goodrich be resolved by many agencies. Determine if this structure is legally a nonconforming 4-plex.**

For example,

- City Zoning Department zoned the property "RT-1 residential 3-4 family legal non-conforming." Similar language was on the developer's petition and on 2 postcards announcing zoning hearings. The Planning Commission postcard said "nonconforming 4-plex" while Summit Hill Association postcard said "nonconforming 4-unit apartment building."
- City Dept of Safety and Inspections calls it a "duplex."
- Truth in Housing/sale of property says "legal duplex."
- A building permit lists it as a "duplex."
- Millie Stone, longtime owner, has confirmed that she lived alone 1984-2011, which may mean that use of the property as "3-4 non-conforming units" was (in legal terms) abandoned.

**I urge you to oppose action on enlargement of upper two units.**

Ask agencies to review **past use of space** and determine if this property will be improved as a duplex, a four-plex, or a four-plex-plus-attic.

**Thank you.**

**Barbara Byers**

**Matze, Mary (CI-StPaul)**

---

**From:** conniemiles@comcast.net  
**Sent:** Wednesday, June 13, 2012 8:39 AM  
**To:** Matze, Mary (CI-StPaul)  
**Subject:** 4-plex

I would like to voice my concern about the enlargement of rental property 890-892 Goodrich. I have lived here since 1967 and my block has become more rental adding more to this already crowded block is not something I support. We have to pay to park and can't sometimes anyway. Some rental properties have been mismanaged. The group facility has a revolving door of employees that park and smoke where ever they feel like and the property itself has wires hanging all over and a bathroom that has no curtains. We who live on this block are at the mercy of people who are making money from these units and I would like to see no more problems added to the block.

Constance Miles  
911 Goodrich

Hotmail Print Message

## goodrich addition

From: [conniemiles@comcast.net](mailto:conniemiles@comcast.net)

Sent: Tue 6/19/12 11:30 AM

To: [gregcruz@msn.com](mailto:gregcruz@msn.com)

Hi Greg

I fully agree with the stopping of this property 890 goodrich. The group home next to me causes many problems that people probably are not aware of. The city never had hearings about the home going in I am glad to see that some things have changed. I too am annoyed with people making money off of our once quiet block. I pay for parking out front but the group home and apartments across the street park there. I wrote a note to the City Council planning about my concerns. Perhaps there is some rule about group occupancy on the block with the group facility on the block. I would like to see the city make more of an effort to oversee all of this. This is supposed to be a residential block. Thanks for all of your efforts if I can be of assistance let me know.

To: Interested Parties

From: Mary Peters

Re: 890-892 Goodrich Ave. Renovation

Date: 06/16/2012

My name is Mary Peters. My address is 897 Fairmount Ave., St. Paul, MN 55105. This is located directly across the alley from 890-892 Goodrich Ave. I have lived at this address since June, 1963. My husband, Gordy, has lived at this address since May, 1978. When we moved here in 1963, the William Stone family was living at 890-892 Goodrich Ave. together with their 3 children. Mildred was his wife, and their sons were named Mark and Chuck, their daughter was named Carlene. They were utilizing the property as a duplex and lived on the west side of the duplex at 892 Goodrich Ave. At some point William Stone's mother moved into the east side of the duplex, at 890 Goodrich Ave. The boys grew up and moved away, and when Carlene was a teenager, William Stone moved out. Mildred and Carlene continued to live at 892 Goodrich, and at some point Carlene moved out as she grew older. Mildred and her mother-in-law continued to reside at 890-892 Goodrich, until the mother-in-law's death. Since then Mildred lived alone on the west side of the property at 892 Goodrich until November, 2011. She had placed the property for sale, and closed on it just before Thanksgiving, 2011. She now lives with her daughter Carlene's family.

This property has continually been used as a duplex since I have lived here in 1963 and most likely previous to 1963. It was never used as a four-plex.

Mary Peters 6-16-12  
Mary Peters 06/16/2012

Gordy Peters 6-16-12  
Gordy Peters 06/16/2012





To: Interested Parties

From: Mary Peters

Re: 890-892 Goodrich Ave. Renovation

Date: 06/16/2012

2MP / ADDITIONAL  
STATEMENT

My name is Mary Peters. My husband, Gordy and I live at 897 Fairmount Ave., St. Paul, MN 55105. This is located directly across the alley from 890-892 Goodrich Ave. We have been unhappy with the contractor who is renovating 890-892 Goodrich, Providence Development LLC. He has had several complaints regarding the renovation, including the retaining wall in the front of the property and construction debris in the back yard and garage of the property. Complaints were made about the city sidewalk being unusable during the construction of the retaining wall and the sand and mud that covered the sidewalk during and after the construction. The next door neighbor to the west of the property, John Christiansen, complained to me and the contractor that part of the retaining wall was placed on his property. There is a record on file with the City of St. Paul, (Permit Online) about the construction debris in the back yard. The contractor then obtained a dumpster and placed it on the driveway behind 890-892 Goodrich, with part of the dumpster obstructing the alley way. There is a record on file with the City of St. Paul that there was no permit for the dumpster. The dumpster was over filled and was too heavy to be hauled away, so the workers had to shovel part of the debris back into the driveway, which spilled into the alley. Dumpster divers came and went daily, and others deposited their own debris in the dumpster on a daily basis. This went on at all hours of the day and night. I had to continually shovel the alley with a snow shovel to clear the debris created by the dumpster divers and dumpster depositors so that it did not puncture the tires on our vehicles. I finally called the city in frustration, as the dumpster was there for over one month and there was zero construction activity. No workers were to be seen. It was finally hauled away.

My next door neighbor, Sik-Toh Ting, complained to me about the way he was treated by the contractor during a conversation about the renovation. The contractor was trying to convince Sik-Toh to sign his petition to enlarge the upper two units of the nonconforming four-plex. Sik-Toh said he was treated very disrespectfully by the contractor. My neighbor who lives next door to 890-892 Goodrich, John Christiansen, complained to me that the contractor came to his house four different times to convince him to sign the petition, which he eventually did.

Mary Peters 6-16-12

Mary Peters

06/16/2012

Gordon Peters 6-16-12

Gordon Peters

06/16/2012

I, SHERMAN SOKOL HAVE RESIDED AT 871  
GOODRICH AVE., ST. PAUL FOR 50 YEARS.

I HAVE WITNESSED MILLIE STONE AS THE  
ONLY RESIDENT AT THE PROPERTY IN THE  
LAST 25 YEARS, (SIC 872 GOODRICH)  
ACROSS THE STREET.

*Sherman Sokol*

JUNE 16, 2012

Regarding Providence Development, LLC's application to expand an "existing legal non conforming use" into unfinished attic space at 890-892 Goodrich Ave. in Saint Paul, MN:

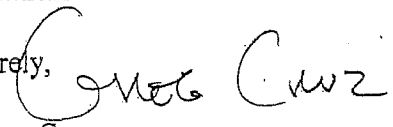
First, evidence and facts show that the City of Saint Paul established the property was utilized as a 2 unit property for many years. The property had a lapse of being occupied as a 3-4 unit legal nonconforming use property for more than 365 continuous days, therefore there is no legal nonconforming use to expand. This would appear to invalidate Providence's application to expand a legal non conforming use. You can not expand something that has ceased to exist.

Second, Providence Development, LLC's application packet to the City of Saint Paul listed their intent to expand an existing nonconforming use on their application sheet, letter, and in diagrams. The City of Saint Paul indicated on their public hearing postcards that the applicant is proposing to add living space to the unfinished attic space as reason for Providence's application. The property owner petition form Providence provided to property owners within 100 feet state that the purpose of their application is to "establish a 4-plex at 890-892 Goodrich Ave." This is inaccurate and would indicate that Providence is applying to re-establish a nonconforming use (which ceased to exist). It would have been more accurate to state something to the effect that, "to establish an expansion of an existing legal nonconforming use for 890-892 Goodrich Ave." While I am not contending at this time anyone has attempted to re-establish a nonconforming use with this application, its acceptance by the City of Saint Paul may have the unintended effect of re-establishing a nonconforming use. No one who signed those petition sheets was aware of this possibility and did not sign off in support of re-establishing a nonconforming use.

I request that you do not utilize these property owner signatures for the purpose of re-establishment of a non conforming use. If Providence Development, LLC wishes to apply to re-establish a non-conforming use for 890-892 Goodrich they should be required to apply specifically for that purpose and obtain new petitions from the property owners.

Third, I want to point out that Providence Development, LLC was required to provide 12 property owner signatures for their application. Two of the signatures are in question. Jim Phillippi (877 Goodrich) was not in the application packet or shown in the City listings provided as a property owner within 100 ft. Ray McLevish (903 Goodrich) tells me that he no longer holds an ownership interest at 903 Goodrich. This may be a moot point since hearings for their application have already been scheduled. Several people who originally signed Providence's application petition are furnishing new petitions / statements in opposition of the application. This is in light of new information and marking a more informed choice as nearby property owners. When the above-referenced questioned signatures are combined with property owners who have changed their minds it appears that there may be less than the required 12 signatures and less support for the application.

Sincerely,

  
Gregory Cruz  
872 Goodrich Ave.  
Saint Paul, MN

June 19, 2012

Virtually all residents and neighbors I have spoken with regarding Millie Stone's old residence (now owned by Providence Development, LLC) at 890 and 892 Goodrich want to see it improved and become an asset for our neighborhood. Millie sold her property to Providence Development out of the west metro last November for \$200,000. This sounds like a remarkable price for a property in Summit Hill. Millie's old place needs a ton of TLC. Providence started contracting work and applied for building permits and has applied for a variance for an expansion for a legal nonconforming use for the property. This means that Saint Paul Zoning Dept. allows the property RT-1 (permitted residential) zoning while also allowing for a use that is not otherwise legally permitted in an area (3-4 family legal non-conforming use).

890 and 892 Goodrich started out in 1890 as a two family home and over the years each of the two sides of the building were split up. This was during a time when zoning was essentially non-existent and most people could "chop up" and rent out properties even if it was not entirely in the best interest of the neighborhood or of the home's architectural integrity. I am sure that you can think of lovely old homes around Saint Paul that were maimed during the Great Depression, the housing shortage following World War II or during urban flight to the suburbs years ago. Millie's home was not spared. This not only changed the character of the residence, it contributed to changing the character of the neighborhood. Gradually residents chose to save the character of their homes and worked toward stabilizing the neighborhood.

Again, I don't believe anyone wants to stand in the way of developing Millie's old home and we all want to see it occupied by stable and considerate neighbors. Most want to see the property owned and operated by someone who will balance their intent to make a profit with the desires and concerns of their neighbors and with the community at large. It is fair to say that no one will care more about their neighborhood than someone who lives in it. That is why I am taking this opportunity to share my thoughts with you.

We all know that the property is going to be re-developed one way or another. Summit Hill is a good area and the prospects for renting the property or renovating it and selling it are reasonable. Why would Providence otherwise purchase it? The developer wants to maximize the return on their investment by expanding additional living space into the non-finished attic at 890-892 Goodrich and utilizing the property as an expanded non-conforming four unit.

I received a letter from Providence requesting support for their expansion of use petition. I heard from various neighbors who signed the petition with concerns about what they have learned. Concerns include hearing that Providence intended to restore the exterior siding but changed their mind to paint the existing asbestos siding and aluminum trim. When I personally questioned Mr. Hjelle of Providence Construction about the exterior treatment he was evasive and non-committal. A neighbor shared that there was little or no insulation in the exterior walls but Providence would not be insulating the property. We were puzzled at this and wondered why Providence would skip on something so fundamental as it would be relatively simple and economical to insulate during remodeling. Questions have been raised regarding stairs for access to the upper floors as they are steep with sharp turns and not easily navigable. I would expect that my neighbors likely have even more concerns than this.

Hearing issues such as these from more than one person piqued my interest and made me decide to look deeper into the history and zoning of the property. I have learned that the various departments of the City of Saint Paul treat this property in different ways when it comes to classifying zoning and type of structure. The City Planning Dept. has the property zoned RT-1 residential, 3-4 family legal non conforming and the City Dept of Safety and Inspections considers the entire building a

duplex. I believe that 3-4 unit properties with a legal nonconforming use (as compared to owner-occupied two-family units) in Saint Paul are required to have a Fire Certificate of Occupancy and regular inspections.

There are Truth In Housing statements on file from the sale of the property last year showing the property as a 'legal duplex' (please see attached). I was also told there was a building permit issued by the St. Paul Dept. of Safety and Inspections on Aug. 4, 2000 issued to Greyhawk Building for roof, siding and porch work that lists the property as a duplex. The building official for the Safety and Inspections Dept., whose job it is to determine zoning enforcement, declared the entire building of 890-892 as two units in 2001 following inspection by that department. It is important to note that there is only one property ID number and Dept. of Safety and Inspections record system references it along with 890-892 Goodrich for having two units total and not 3 or 4 units. Please see the attached records provided by Leanna Shaff, Supervisor with the Safety and Inspection Dept. (Note: A reference to the building as a "4-plex" in the notes section of one of the user screens was input by Karen Zacko of the Planning Dept. and not by the Safety and Inspections Dept). The Safety and Inspections Dept. are the official "eyes" of the City and determined back in 2001 that the property was one two-unit family building as it was utilized in that manner.

I reviewed the City of Saint Paul zoning code, particularly paying close attention to sections related to 'legal non-conforming uses'. It is my contention that there is a basis for asserting the legal non-conforming use was abandoned/forfeited/allowed to lapse by Millie Stone through non-use of the property as a 3-4 unit as far back as 1984-85. It was generally known to neighbors that Millie lived in the residence alone for many years (27). The City Zoning code clearly provides for such an abandonment of a nonconforming use and states that the burden of proof is upon the owner to prove "use" of a property's legal non-conforming use on a continuous basis. The zoning code includes that when a nonconforming use is discontinued or ceases to exist for a continuous period of 365 days it will be considered an abandonment of the property's legal non-conforming use.

I have lived three doors east from Millie since 2004 and have never seen anyone else live there during this time. The City Zoning code appears revolve around the word 'use' regarding abandonment of legal non-conforming use - but City Planning Dept. office policy is skewed toward physical changes. I asked the Planning Dept. to clarify what constitutes "use". I was told that such things as "removal of items such as locks, appliances, toilets, etc. would show that the property was no longer used as a 3-4 unit." I asked for this guideline in writing. I was told this information was merely the Planning Dept's "office guidelines" and there is nothing in writing. Pursuing further clarification I was told that the four unit walls could remain but the owner would have to freely move between the units. Since 1984 Millie utilized two of the "units" at 892 (one upper and one lower) by living in them essentially as an owner-occupied two-family dwelling. The other two "units" were not lived in or rented out at 890 Goodrich from 1984 through 2011.

It is important to note that in regard to non-conforming uses most municipalities differentiate between the 'use' (what actually happens in the building; how people live in it or 'use' it) of a residence versus the 'structural' aspect (are walls moved, removed, kitchen or bath removed?). The Saint Paul City Zoning Code clearly states that in regards to legal nonconforming uses in Section 62.102 "'use" means the principal purpose for which land or a building is being occupied". From 1984 through 2011 Millie did not maintain the property occupied as a 3-4 legal unit nonconforming use as its "principal purpose". The Saint Paul Zoning Dept's "office guidelines" (again, which are not in writing) appear to impose a structural and/or physical litmus test which is not in a similar vein as the building code which specifies "being occupied" as necessary for "use" (Sec 62.102). At

the end of the day I believe there is plenty of case law (including MN judgments) that will support an argument that the prior legal nonconforming use was abandoned for 890-892 Goodrich.

Since legal non-conforming uses are contrary to what is normally legally allowed in an area, many municipalities seek to eventually get a property to a conforming use appropriate for its neighborhood. All city departments as well as the residents in the area have an unique opportunity to clear up the zoning questions on this property.

A two-family dwelling fits with the character of the neighborhood and block and is a conforming use. Less proof of this is required than to look to why Providence is seeking an expansion of a non-conforming use to enlarge some of the "units". They feel the area for four units is not enough living space. It appears that this property is either a right-sized two family structure as it was originally designed and built or it's a cramped multi unit cut up into many separate pieces with an awkward layout.

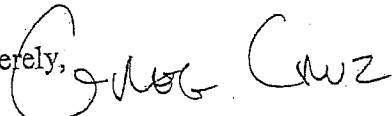
There is the possibility that the current or a future owner could request a variance to add rental units to the basement. The owner is not requesting this at this time, but there is nothing to keep this from happening in the future. Expansion into the attic could perhaps lead to the possibility of the current or future owner utilizing the property as a 5 or 6 unit without making the city aware.

Expansion of or re-establishing a non-conforming use will impact parking in the immediate vicinity and create a ripple effect for the entire block. Our block of Goodrich Ave. joined the Area 9 permit parking area to aid in the protection and safety of children and pedestrians by reducing hazardous traffic conditions, and to help lessen noise and pollution, and to preserve the character of Goodrich Ave. as a residential district. Even though the developer has indicated four to five off-street parking spots, it is likely that on-street parking will add anywhere from 4 to 10 additional residential autos (this is based upon my observation of a five unit building near my house which averages 11-12 resident autos parked on the street most evenings) plus additional visitor parking to this block of Goodrich Ave.

In conclusion, there is no reason for any of us to be desperate to have someone splash some paint upon Millie's old home, pack as many people into it as possible and call it appropriate 'progress' or 'improvement'. We don't need to be threatened by a developer that will "Dump the property and leave it vacant" (Greg Hjelle's words to me). This does not sound like someone who is committed to neighbors living next to his property or someone who cares about what you think unless it contributes to his bottom line. One can only imagine how we all will be treated by such a non-resident landlord if Providence is allowed to get what they want from us at this time.

Have you ever made a decision without having enough information only to regret it later? I ask each of us to look at all the facts and the situation while exercising patience, prudence and reasonable judgment. I respectfully submit that this is the only way to make informed decisions that affect our neighborhood.

Sincerely,



Gregory Cruz  
872 Goodrich Ave.  
Saint Paul, MN

651-690-2828 gregcruz@msn.com

June 18, 2012



**Cruz letters from June 18 and 19, 2012**

This letter included 25 additional pages of documentation

- TISH Reports
- Fire Inspector reports from Leanna Schiff
- STAMP detail

Please see PED file for complete documentation.

To The City of Saint Paul and all interested parties,

In my prior correspondence to the City of Saint Paul (SHA Zoning Committee, Saint Paul Zoning Committee, St. Paul Planning Commission, St. Paul Dept. of Safety and Inspections, Ward 2 Councilmember David Thune) and my recent testimony to the Summit Hill Association Zoning and Land Use Committee I stated my opposition to an application by Providence Development, LLC to expand an "existing" legal nonconforming use at 890-892 Goodrich Ave. Among various reasons for opposing their application for expansion, I suggest that the nonconforming use was discontinued and ceased to exist under the prior owner during 1991-2011 for a continuous period of well over 365 days (actually for over 20 years). I maintain that the prior owner's discontinuance is per the City of Saint Paul Zoning Code and per Minnesota statutes I reference as follows.

I do not have an issue with the fact that 890-892 Goodrich once held a legal nonconforming use for 3-4 units for a period of time in its history. That fact was well established prior to 1961 when Millie Stone purchased the property. I contend that the prior nonconforming use ceased to exist for a continuous period of 365 days during 1991-2011 (and per, MN statute 462.357 sub. 1c, "The nonconformity or occupancy is discontinued for a period of more than a year") thus reverting the property back to its original conforming use. Please see St. Paul Zoning Code Sec. 62.106 and Minnesota statute 462.357 as referenced.

St. Paul Zoning Code Sec. 60.222 General Definitions defines "use" "as the principal purpose for which land or a building is being occupied." St. Paul Zoning code Sec. 62.102 also defines "use" with the same wording: "'Use' means the principal purpose for which land or a building is being occupied". When reading the St. Paul City Zoning Code and Minnesota Statutes related to the issue of legal nonconforming use it would seem reasonable to determine that a property with a "3-4 unit legal nonconforming use" designation would need to continuously maintain occupancy of 3-4 units for its "principal purpose" of said occupancy according to the St. Paul Zoning Code and per Minnesota statutes in this area.

The City of Saint Paul zoning code does not appear to define the word "occupy" in its general definitions. Merriam Webster's dictionary defines "occupy" as 1) To take or fill up space, 2) To dwell or reside in. Which definition shall the City of Saint Paul utilize when applying the zoning code?

Did Millie occupy the entire 4 unit structure during 1991-2011? No one else lived there during that time period. If Millie did, indeed, "occupy" at least 3 or all 4 units does this mean she lived in the property for its principal purpose? Millie told me that she lived in the two units at 892 Goodrich only during 1991-2011 and long-time neighbors have provided statements to the same fact. Perhaps if Millie lived in those two units *and* kept belongings stored in one and/or two units of 890 Goodrich also, then it could be asked did she maintain the property's 3-4 unit nonconforming status? Does doing this sound like the intended purpose for a 3-4 unit (3-4 family dwelling)?

If Millie did "occupy" the 3-4 unit building, maintaining its nonconforming status, would she not be required to obtain a fire certificate? Fire certificates are required in St. Paul for 3-4 unit buildings. If Millie did "occupy" 3-4 units would the property not have been utilized minimally as a two-family dwelling or as a single family dwelling and not as a 3-4 legal nonconforming unit (3-4 family dwelling)? Would not doing this discontinue its use as a nonconforming 3-4 unit?

The City of Saint Paul could utilize "To dwell or reside in" as the definition for "occupy".

Does this mean that it would have to be proved by the current owner that the prior owner, Millie Stone, continuously and physically dwelled or resided in 3 or 4 of the units during 1991- 2011 in order to maintain continuance of a nonconforming use? If so, does this not indicate that she would have passed freely between the units (One can not pass freely into a neighbor's locked apartment unit) , therefore not using the units as "units" at all, but rather as of single family dwelling (in the case of occupying 4 units), or as a two family dwelling (occupying 2 or 3 units, leaving one or two empty)? Do we need to parse this further and ask, "What is a unit?" How do these possibilities compare to City and State code and statutes when discussing "the principal purpose for which land or a building is being occupied" in relation to a legal nonconforming use for 3-4 units and discontinuance of that nonconforming use?

Even though I am making a case that the property's nonconforming use for 890-892 Goodrich ceased to exist during 1991-2011, the burden of proof to show clear and convincing evidence that the property continuously maintained its nonconforming use during that time rests with the current owner of the property per St. Paul zoning code Sec. 62.102. I make this case to provide information to the City and interested parties and to show there is ample evidence and reasonable cause that the nonconforming use discontinued or ceased to exist during 1991-2011:

While it is important to understand when and how a property established a nonconforming use, the St. Paul Zoning Code and Minnesota Statutes do not reference physical or structural requirements of a property when defining 'use'. Just because it was used in a physical manner as as a 4 unit for a period of time, it does not mean that the property maintained the right to be utilized as a 4 unit. Even though 890-892 Goodrich may have established 4 units with doors and walls in the past (making it a four family dwelling at one time) if it was not utilized for the principal purpose of 3-4 units continuously its right to a nonconforming use ceased to exist. An inspection of 6/20/12 by the City of Saint Paul is a good idea. However, an inspection today only shows what the property looks like under a new owner at this point in time. Such an inspection may not show all aspects of how Millie Stone used the premises and who lived at 890-892 Goodrich during 1991-2011.

Minnesota statute 462.357 subd.1e Official Controls: Zoning Ordinance in relation to nonconformities states; "(a) Except as otherwise provided by law, any nonconformity,

including the lawful use or occupation of land or premises existing at the time of adoption of an additional control under this chapter, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, unless:

(1) The nonconformity or occupancy is discontinued for a period of more than one year; or

(2) Any nonconforming use was destroyed by fire..." (#2 is not relevant to this case)

St. Paul Zoning Code does not reference as Minnesota statute 462.357 sub. 1e does the "continued, including through repair, replacement, restoration, maintenance, or improvement" as a possible ways to continue a nonconforming use other than "use" by principal purpose of occupancy. I point this out in order to note that the prior owner, Millie Stone did none of those things to materially continue her property's legal nonconforming use over the period of 1991 - 2011 under state law. Evidence of this is the fact that the two units in 890 Goodrich were in serious disrepair (please see the property's 2011 TISH report) and not occupied by Millie and/or anyone else. Millie told me, "After her mother-in-law moved out in 1991 she did not want to repair or improve the two 890 Goodrich units in order to obtain a fire certificate from the City because repair would cost too much." This plus Millie's actions (or inaction) illustrate the prior owner's intent to no longer claim a right for a nonconforming use to utilize the property as a 3-4 unit dwelling during 1991-2011, a period much longer than 365 days.

Proof of the prior owner's intent to discontinue the property's legal nonconforming use may not be required. The courts have established where a nonconforming use has been dormant for longer than one year, a presumption of intent to abandon is proper. It ameliorates the municipality's severe burden of having to prove affirmatively a property owner's intent. The property owner is free to present evidence that he or she intended to continue the use or that cessation was beyond her control. Other states have adopted this rule. See *Martin v. Beehan*, 689 S.W.2d (Ky. App. 1985); *Williams v. Salem Township*, 92 Pa Cmwlth. 634, 500A.2d 933 (1985), app. den. (Pa. Aug. 24, (1987).

Please see the attached legal opinion from the Minnesota Court of Appeals 04/30/91 *County of Isanti v. Mary Ann Peterson*. It states:

1.) Minn. Stat. 394.36 (1990) empowers counties to terminate nonconforming uses after a one-year period of discontinuance. Abandonment need not be proved.

2.) The passage of a period of discontinuance specified in a local ordinance for the termination of a nonconforming use constitutes prima facie (based on the first impression; accepted as correct until proved otherwise) evidence of intent to abandon the nonconforming use.

The attached legal opinion from the Minnesota Court of Appeals goes on to cite several other verdicts and legal cases including *Hooper v. City of St. Paul*, 353 N.W. 2d 138, 140 (Minn. 1984) (nonconforming uses may continue until removed or otherwise

discontinued). "The trial court properly concluded that appellants' right to continue the nonconforming use was terminated by reason of its discontinuance." I urge you to fully read the Minnesota Appeals Court decision that I have attached with this letter.

In my prior earlier letter of this week to the City I illustrated how the St. Paul Planning Dept. and the Dept. of Safety and Inspections each has historically classified 890-892 Goodrich. Even if it is not clear how the City viewed the property during the period of 1991-2011 and the City falls back to a 3-4 unit nonconforming classification, this does not negate the idea that the prior nonconforming use ceased to exist as I have discussed. A dogged insistence that the property enjoys a 3-4 unit nonconforming use today does not mean that one did not cease to exist in the past, therefore calling into question Providence Development's application request to expand a legal nonconforming use. I submit that you can not request to expand something that has not continued and ceased to exist.

The information I have shared regarding zoning of 890-892 Goodrich is available to the City of St. Paul, the public and to Providence Development. I noticed discrepancies with the zoning and use of the property which caused me to ask further questions. You would think that a developer and business person would take the time to fully understand their investment before taking a risk. The City and residents can not help it if Providence Development did not or was not willing to perform the research necessary to fully appreciate 890-892 Goodrich's history and zoning. I would think that the new owners could have purchased an enhanced or extended title insurance policy to help mitigate their risk. All investment carries risk. As a conforming use two family dwelling, 890-892 Goodrich is still a reasonable investment and I believe the owners can still make an application to establish a nonconforming use as long as the zoning code allows it in this case.

My other personal concerns as a resident (and concerns shared by other residents) include increased density on a residential block that already has numerous multi-units and two family or duplex dwellings. Increased parking pressure will add many more resident and non-resident visitors to this block of Goodrich Ave. I am concerned about restoring and preserving the character of the neighborhood (which increased parking pressure lends itself to).

I believe a two-family dwelling at 890-892 Goodrich is the most appropriate use for the property, fits with the neighborhood, and what, I contend, the property's legal zoning reverted to during 1991-2001 under Millie Stone.

Sincerely,

Gregory Cruz  
872 Goodrich Ave.  
Saint Paul, MN 55105

June 21, 2012

651-690-2828

**Cruz letter from June 21, 2012**

This letter also included 21 additional pages related to Minnesota law and related legal cases. Please see PED file for complete documentation.

PETITION OF PROPERTY OWNERS REGARDING  
PROPERTY USE AND ZONING AT 890 and 892 GOODRICH AVE.  
SAINT PAUL

We the undersigned, owners of property in the vicinity of 890 and 892 Goodrich Ave. Saint Paul are concerned about proposed development and property zoning at that residence. We are requesting that the Summit Hill Association Dist 16 ZLU Committee, Saint Paul Planning Commission Zoning Committee, The Saint Paul Planning Commission and The Saint Paul Department of Planning and Economic Development, decline the application to expand a legal non-conforming use by Providence Development for 890-892 Goodrich Ave.:

Reasons for our opposition to the application include:

Parking will have adverse effects in the immediate vicinity and the entire block. The block joined the Area 9 permit parking area to aid in the protection and safety of children and pedestrians by reducing hazardous traffic conditions, and to help lessen noise and pollution, and to preserve the character of Goodrich Ave. as a residential district. Even though the developer has indicated four off-street parking spots, it is likely that on-street parking will add additional residential autos plus additional visitor parking to Goodrich Ave.

The property reverted back to a conforming use and that the prior non-conforming use to utilize the property as 3-4 units was abandoned through non-use. The property had been occupied for the past 27 years solely by the prior owner and not been utilized as a 3-4 unit dwelling during that period. We request that you do not re-establish a non-conforming use of 3-4 units for this property.

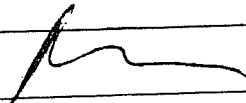
Property Owner's Name: Brennan McMillan

Current Address: 889 Fairmount Ave

City, State, ZIP St Paul MN 55105

Property Address (if you are a non-resident property owner)

Property Owner's  
Signature

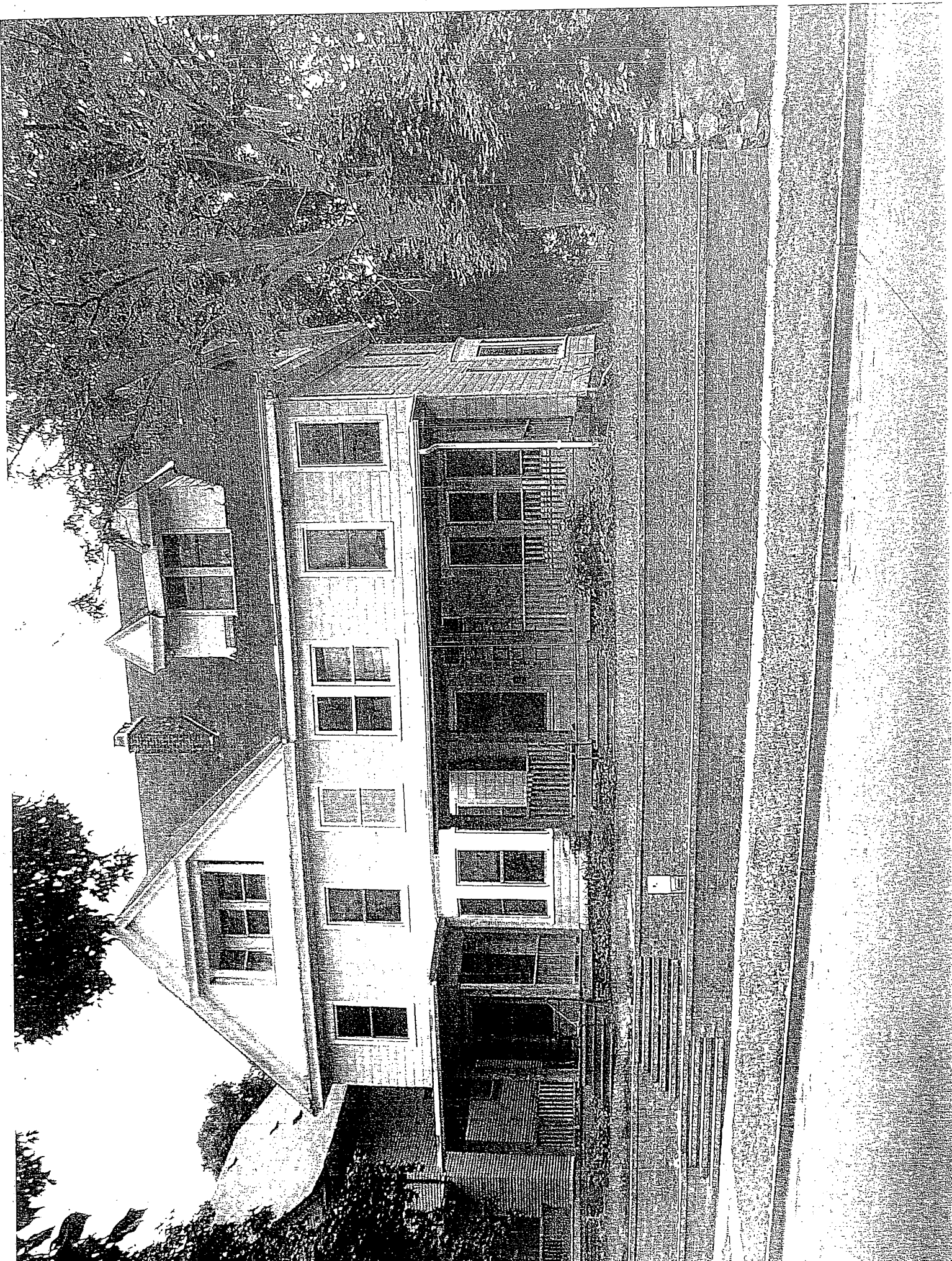
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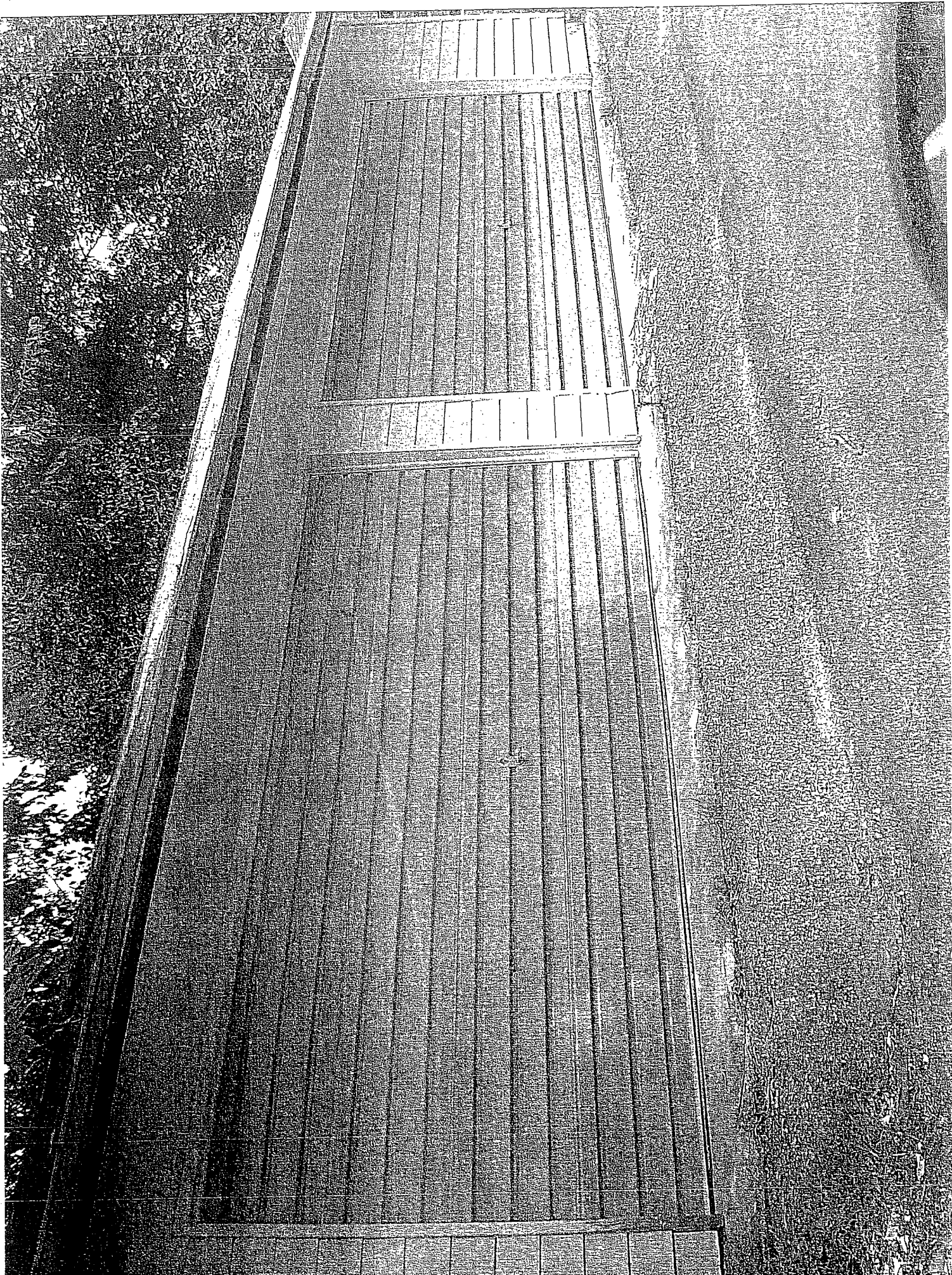
Date:

6, 18, 2012

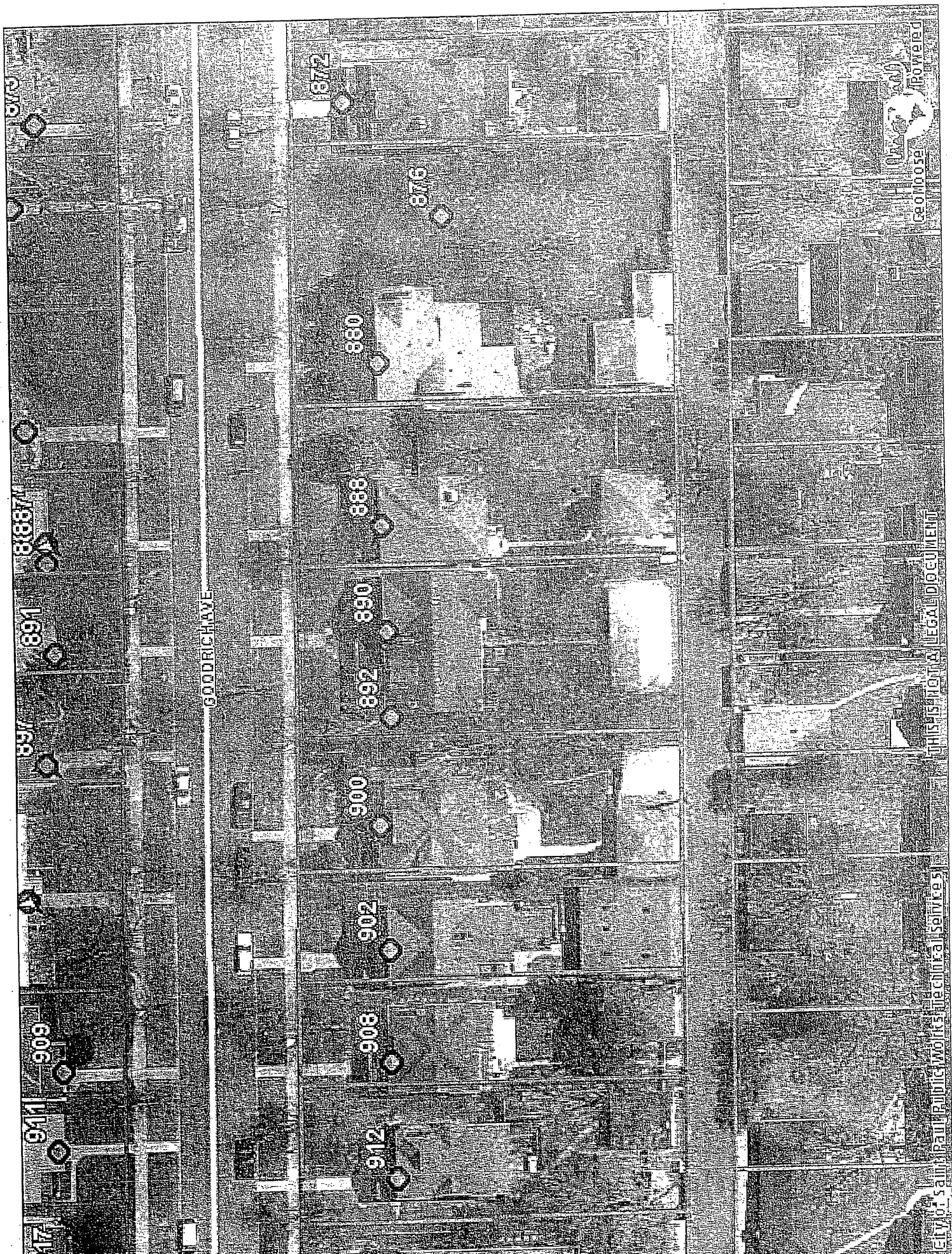
Cruz included 15 additional signed petitions.  
Please see PED file for complete documentation.







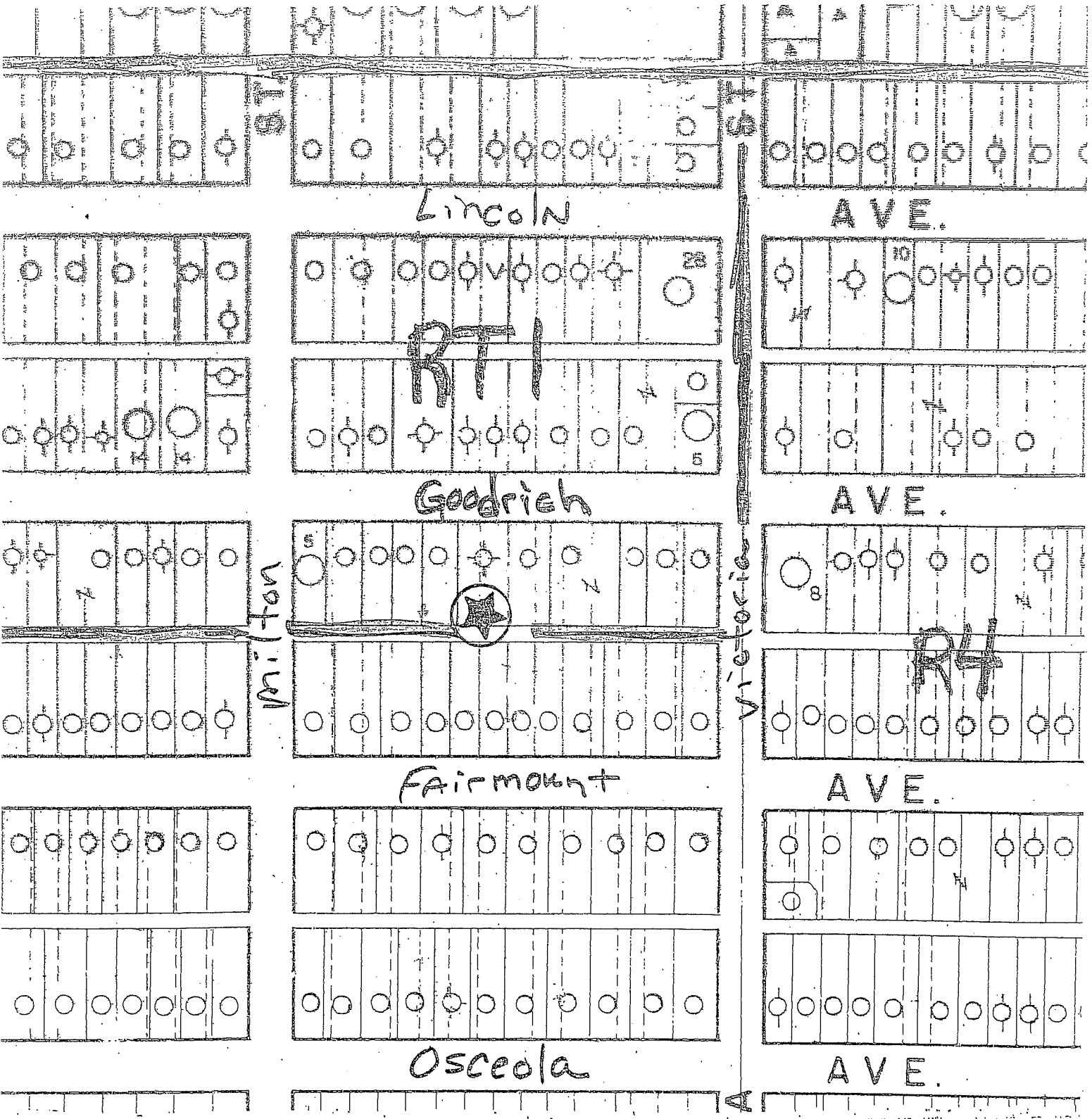




City of Saint Paul Public Works Technical Services

THIS IS NOT A LEGAL DOCUMENT

Geonosec POWERED



APPLICANT Providence Development  
 PURPOSE Enlargement NCUF  
 FILE # 12-065215 DATE 6-6-12  
 PLNG. DIST 16 Land Use Map # 27  
 Zoning Map # 21

LEGEND

- zoning district boundary
- subject property
- one family
- two family
- multiple family
- commercial
- industrial
- vacant

